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THE King's Prerogative AND THE Subject's Priviledges ASSERTED According to the LAWS of ENGLAND, Together with OBSERVATIONS ON THE LAWS and GOVERNMENT OF Most of the Kingdoms and States of the Universe.

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King's Prerogative
and Subjects Privileges

TO THE READER.

THe Laws and Constitutions of Kingdoms and Common-wealths have ever been esteemed by those happy Subjects whose lot it hath been to be governed by them, as the most Precious and Sacred Treasure wherewith the Divine Bounty had Inriched them, and therefore they would as soon have been prevailed upon to part with their Lives as their Laws, and among all those Nations whose Monarchs are truly Royal, and whose happy Subjects are Ruled and Governed by the Unerring Precepts of Equity and Law, *England* is yet the most happy, and

challengeth the Precedency above the rest of her Neighbours, for the Constitutions of her Government are the best in the World, being no Absolute, Arbitrary, or Despotick Tyranny, wherein the Will and Pleasure of the Prince disposeth of the Lives and Fortunes of his miserable Vassals; nor is it an Oligarchy wherein the Nobles and those who bear sway, like the larger Fish in the Ocean, prey upon, and live by devouring the smaller, and raise themselves to Wealth and Grandure by the Oppression and Ruine of their Inferiours; nor yet is it a Popular Democracy, or a Confused Anarchy, but the Law maintains the Sovereigns Dignity, and yet secures the Subjects Liberty. It is by the Law that the King is enabled to govern and dispose of all things with a Royal Sovereignty,

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and free from any kind of Arbitrary Severity, & thereby oblig'd the People to a willing subjection without force or compulsion; and the same Laws by uniting the Interest of the Prince who governs by that of the People who are governed, hath so firmly knit and ty'd them together, that the happiness of the one is inseparably wrapped up and Involved in the good of the other, so that Majesty may be maintained in its just splendour, and the Royal Prerogatives of the Crown preserved from any kind of Diminution, and yet the Liberty of the Subject be secured, and Property no way infringed or violated, and thereby approves it self to be the best security of both, and that when it is trampled under Foot, and violated, neither the one nor the other is safe.

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And that which still augments the excellency of our Constitution, and renders it the most happy, desirable thing under the Sun, for the Prince to govern, and the People to be governed by Law, is its exact agreement with the dictates of Heaven, and the resemblance it bears to the Original of all Government. For the Supream Monarch and Soverign of the Universe governs his Subjects by Laws, clearly stating and ascertaining the Duties commanded, and the Crimes forbidden, together with the rewards of the one, and the punishments of the other.

And as those Sacred Precepts whereby the Almighty rules his Subjects are all of them designed for, and directly tend to the Honour and Glory of God, who is the Lawgiver, so they are as properly

perly designed for, and have as direct a tendency to the present good and felicity, and the fortune, happiness and glory of Mankind who is to yield obedience to them, and the honour of the Sovereign and the happiness of the Subject are thereby so inseparably united, that one and the same Act of Obedience effects both, and the same act of Rebellion reflects dishonour upon the Sovereign, and merits punishment to the disobedient Subject; so our Wise Legislators in the composeing of our Laws, have so contrived them, that by the very same act of Subjection whereby we manifest our obedience to them, we bring happiness and safety to our selves, as well as yield honour and homage to our Prince, as is more fully proved in the following Tract, wherein you'l find

a brief account of the Laws and Customs of most Nations, and a Conviucing Demonstration from the most Authentick Historians, that those Countries have ever been the most happy and flourishing whose Prince have ruled, and whose Subjects have obeyed by Law.

J. N.

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IT has been always the Great Happiness of this Nation, even as far as we can pierce into the dark and obscure Coverts of Antiquity, to have been famous for the *Equity* and *Justice* of her Princes: and that from such most wise and prudent Legislators, she has receiv'd the chiefest of her wholsome Laws, according to the Temper and *Genius* of the People. So that although perhaps some few in the long successive *Series* of her Monarchs, may have aspir'd to absolute and uncontroulable Dominion, yet the Opposition which they met with from the provident Establishments of their Predecessours, would in no wise suffer them to be successful in their Attempts; and others, tho' perhaps meaning no better than the worst, have thought it no imprudence not only to confirm those ancient and wholsom Laws of their Ancestors, but to make some new additions of their own, to rivet themselves into the favour of the People, as being

otherwise obnoxious to those Violences incident to Usurpation and a crazy Title. Which as it was their Wisdom to do, so was it an Excellency in their Government far longer liv'd, and much more beneficial to the Publick than the Peccadillo's of their Ambition could be prejudicial to private Interests. For all good Laws are the Honour and Renown of them that frame them, whether out of real, or out of seeming Virtue and Affection to the People.

Yet some there are, perhaps, that may despise the Generous Constitutions of their Native Country, believing nothing *super*-excellent, but what is Foreign. But they are not to imagin there is the same judgment to be made of Governments, as of Dyet and Habits; besides, that it is the Fate of *English* Travellers to be very unhappy in their Observations of things of Moment: Neither is the Inlight into Government to be travell'd for only into *France*, or *Italy*, or *Spain*, nor to *Jerusalem* neither, unless it were the ancient *Sion*; but into History and approved Authors, where is to be seen the Reasons of the Periods and Dissolutions of Boundless Empires, and the Causes of the Revolutions and over-

turnings

turnings of Potent Common-wealths.

That Law and Government are of Celestial Extraction, is a Dispute which will admit of no Controversie. For no sooner Man committed a Transgression, but Nature, which is that Reason which Man at first deriv'd from the benignity of his Maker, soon inform'd him he had done amiss. And no sooner was Mankind multiply'd into Numbers, with disparity of Parts and *Genius*, Temper and Humours, but the same Nature taught them the necessity of Rule, and the Benefit of Subjection. I say these things were instill'd into the Breasts of Men by Nature, and not by the growing Experiences which one day prompted by another perceiv'd, and concluded to be the only Remedies of the Evils they sustain'd. Those Conjectures therefore of *Tacitus* and *Livy* are altogether to be laid aside, who tells us of the Simplicity and Virtues of the first Ages of the World, and that the most ancient of Mortals co-habited without inordinate Desires, free from Villany and Impiety, and so not under fear of Punishment or Coertion; and that there was no need of reward, when every one voluntarily pursu'd the Tracts of Virtue, and void of

all extravagant Desires, requir'd no restraint of their Excesses. These were only florid Conjectures? For it is apparent from authentic History, that Violence and Treachery enter'd the World when there was yet but the small number of Four, and of them, the one that slew, and the other that was slain. Of which the Tyranny and Cruelty of *Lamech* being no less an immediately ensuing Instance, they both afford an emergent Evidence, that they were not ignorant of the Enormity of the Facts they had committed, as convicting themselves by that Law of Nature which inwardly upbraided them for having so highly transgress'd. So though in part it might be true, that Luxuriant Dominion and Injurious Violence, when just Equality and Modesty grew out of date, inforc'd the necessity of Laws, yet does it not appear that the World was so long ignorant of Mischief, as to merit those *Encomiums* of Ethnic Fancy.

But though the Apprehension of a Law commanding Good, and restraining Evil, and a deep sence of Punishment incurr'd by the breach of that Law, were imprinted thus in our first Progenitours, yet we do not hear in all the

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Thousand six hundred fifty six Years (for I omit the fabulous Calculations of the *Egyptians*) before the Flood; that ever any one attempted to erect a Sovereignty, or to assemble the confused Multitude under any setled Constitutions. Although there be who affirm, *Dresserus* among the rest, that *Cain* Erected a Peculiar Kingdom and a Religion of his own, which well he could not do without prescribing Rules and Institutions proper to his Government.

After the Flood, no longer than a Hundred fifty one Years, (so ancient is Kingly Government) most certain it is, that *Nimrod* assum'd to himself Imperial Dignity and Dominion, as being the first Founder of the *Assyrian* Monarchy: In whose Raign also *Ashur* went out of *Shinar* and built several Cities; wherein it cannot be thought Men liv'd without the Tyes and Bands of Political Government. *Nimrod* having led the way, we read of many others in many other places, as *Amraphel*, *Kedorlaomer*, *Tidal* King of Nations, and the rest all mention'd together. And now Particular Laws and Customs apparently discover'd themselves. *Abraham* gives the Tenth of his Booty to *Melchisedech*, and the rescu'd

Kings voluntarily resign'd him the share of the Spoyl which he had won in Battel. Leagues were made for mutual defence; and under variety of Governments, every one held their Native Rights and Customs for dear, that as the first War we read of in the World was made to subdue, the next was a revolt, to recover lost Liberty, and to throw off the Yoak of Arbitrary Dominion.

Now the same Law that restrain'd Injury and Wrong, asserted Right and Property, or lawful and peculiar Possession of the Assistances and Conveniences of Living. And this was also taught to Man by Nature: For at the same time that the Breath of Life was infus'd into him, was also bequeath'd him that light of Nature, that gave him not only Reason, but right Reason, and consequently the true Grounds and Foundations of Law. Therefore it was that *Cain* and *Abel* betook themselves to different Occupations, to the end they might the better understand what belong'd of right to each other; it being but reason that they should both enjoy the advantages and emoluments of their different Labours. Thus *Adam* was the first that Planted, *Cain* the first that dealt

in Pasturage, and *Abel* the first that followd Agriculture. Who as the World encreas'd made a disposition of right to others according as they saw convenient. And it was but rational for them that were thus invested in possession, to establish the right of their peculiar Claims and Properties upon the Divisions and Bequests of them that were Lords of All. After them were born the Inventers of Arts and Handicraft Trades. From whom 'tis very improbable to think 'twas then lawful to rifle their Inventions, without Exchange or the plenary satisfaction of one Commodity for another.

These things were well observ'd by *Seth*, the third Son of *Adam*, 235 Years after the Creation, in the hundred and fifth Year of his Age, by which time as the World was vastly stor'd with People, so had they as greatly encreas'd their Proportions of Stock and Substance; and improv'd their Allotments and Inheritances of Land. And therefore he began to deem it now high time to think of Framing Laws and Ordinances, for the better Government of so numerous a Common-Weal. And this fell out to be in the Year that his Son *Enoch* was born; at what time, as the Text records,

Men first began to call upon the Name of the Lord. For that then it was, that *Seth* first introduced the Practice of Religion, or the Awe of Divinity, and made Laws and Constitutions for the safety and security of Right and Property; and to prevent those disorders and disturbances of common Tranquillity, of which it may be well conjectur'd he was not a little fearful from the bad Examples of *Cain* and *Lamech*. So that although *Cain* and his Off-spring, that totally perish'd in the Deluge, were the first that broke the Law of Nature, Yet *Seth*, by another Line; another Son of *Adam*, begot by him after his own Image and Likeness, that is to say, Prudent, Good and Virtuous, as he was, whose Race re-people'd the drown'd World, and continues to this day. He it was that made this Light of Nature burn more clearly, by bringing Religion into Form of Worship, and Law into Precept and Practice. And it may not vainly otherwise be thought, but that under that same Form of Worship, and under those Laws, Men in all respects continu'd obedient and conformable while *Adam* liv'd; that is, till within seven hundred and seven years before the Flood, so great a veneration they

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might have for him that was so well known to be the surviving Original of all Humane Race. However it were, this remains unquestionable, that the general Corruption and Impiety of Mankind, occasion'd the Wrath of the Omnipotent Creator, and that thereupon he sent the Deluge to destroy from the Earth that numerous Succession which had so highly offended him. Of this the reason assign'd in general was that already mention'd; a total Defection of all the Sons of Men from God, which had infected every thought of their hearts. All the Precepts of Religion and Nature, all that good Order which *Seth* had setl'd in the World, was at length utterly ranvers'd; Liberty and Property was invaded, and the Repose and Peace of Common Society spurn'd and trampl'd on by Potent Cruelty and Domineering Injustice. And all this seems to be included under the particular reason of Divine Vengeance. For says the Text, *In those days were Gyants upon the Earth*, הַנְּפִלִים, that is to say, Men who either were such as bore down all others before them, by reason of their vast strength, and huge proportion of bulk, from *Nephal*, to throw down; or from the

same word signifying, *to revolt*; such as were Revolters from God, or from the same Root again, signifying *to rush upon*, such as by violence invaded the Rights of others by Violence and Oppression. According to which two latter significations, the mighty Men of those times were call'd Gyants. For that contrary to the Law of Nature, supposing then no other Law, by force and power they despoil'd the weaker sort not only of their Goods and Possessions, but robb'd them of their Children, their beautiful Daughters at their will and pleasure; so the words *Lakach*, and *Bathar* imply, the one signifying to *ravish away by violence*, and the latter to *call and choose*. Otherwise, with reverence be it spoken, it cannot be thought, that the being delighted with the Charms of beautiful Women, and taking them for Wives, was a Crime to merit the Destruction of the Almighty's Handy-work; or as the Scripture terms it, the Repentance of the Creator that he had made Man. But this is mention'd as a Crime *ad hoc*, including all those other Violations of Law and Justice then raging in the World. And this is apparent from the Context, which gives the best and brightest light

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to Interpretation. For among all the High Crimes and Misdemeanours that so infamely provok'd the Indignation of the Lord, there is none particulariz'd, but this one Act of the Mighty, in the Sons of God, incroaching upon the Rights and Privileges of the meaner sort, call'd the Sons of Men, by taking forcibly from them their Daughters and Virgins, to satisfie the fury of their Lust and Incontinency. For which, at first, God only determin'd to abbreviate their Days, and shorten the measure of their long Lives. Perhaps he might forbear, expecting a Reformation of their Oppression and Cruelty, repented in the next Verse, with a particular aggravation of the same Fact, of *going in to the daughters of Men*, not to be avoided by reason of their irresistable force and power, as being the Sons of God and Gyants. But by vertue of these Conjunctions, the Gyants had Sons, who became afterwards Men of Renown; that is, such as made themselves terrible and redoubted by their Cruelties, and Exercise of Illegal Dominion; and as they multiply'd, fill'd the World, no doubt, with Arbitrary Rapine, and wilful Bloodshed, to obtain their wicked purposes. Which is also

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more palpably discover'd in the following words, explanatory of the preceding general Accusation, that the Earth was fill'd with Violence. A word so diffusive in its signification, that it comprehends all the signal breaches of the Law and Religion, and all the Effects and ill Consequences of Violence, Rape, and Injury; which where ever they predominate, renders the sufferers miserable.

This we are come to the Destruction of the First World; and find the Causes that hasten'd it, to be the want of Order and good Government. So that it may well be said, that while all the Sons of Men had abandon'd themselves to the neglect and contempt of the Law and Justice, while Dominion rang'd without the curb of Primitive Reason, and Obedience was only Passive Confusion, the general Inundation of merciless Cruelty and remorceless Violence, set open the Flood-gates of the Deep, and let loose the general Inundation of Water, that overwhelm'd the whole Earth. From whence it being apparent, that the contempt and disregard of right Reason, and consequently of Law, Government, Order, Justice and proportionate Equality between Dominion and Subjection,

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produc'd those Effects which were the universal subversion of Mankind, the chiefest Lesson which the next World had afterwards to learn, was to observe the Failings and Miscarriages of their Predecessours, and to be tender of running into these Enormities that draw down the Judgments of Heaven, and distract and dislocate the Unity and Society of Mankind.

And had it not been for the solemn Promise of the Almighty, how soon another Deluge might have washed away the repleniſh'd Race of *Noah*, no Man can say. Yet might it well be thought there was cause enough given for it, while early *Nimrod* trod the Gyants steps, became the Proverb of those times, and was call'd *Gibbor Tsaid*, or the strong Hunter before the Lord. For He perceiving the People terrifi'd with the thoughts of the late Deluge, and afraid themselves of the same Calamity, takes from thence a plausible Pretence to make himself their absolute Lord and soveraign Commander; and to inculcate into their grosser apprehensions a deeper awe and reverence of his Person, perswades them that he had found out a Means to secure them from all their Fears, and to that purpose puts *Joseph. Antiquit. l. 1. c. 4.*

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puts them upon that stupendious Labour of building a Tower, whose vast height should bid defiance as well to Heaven it self, as to all future Inundations. Which Toil and Travail while they undertook, he had the advantages both to exercise and establish the Tyranny which he had long before affected. In the pursuit of which Design the numberless Multitude being shatter'd into several Languages, were constrain'd to quit their intended Enterprize, and having no way to unite again, they only assembl'd and embodi'd together, as variety of Language prompted their understanding, and parting sundry ways sought out particular Habitations, some in the nearer, some in the remoter empty Regions of the Earth, as Room and Convenience led them. Where under several Kings and Princes doubtless were Erected several Forms and Constitutions of Government, according to the *Genius* of them that bore sway.

Nimrod all this while kept his station with those that spake his own Dialect, and minding nothing more than to extend his Territories, propagated his Dominion where he built *Nineveh* and *Resen*, particularly call'd the great City,

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by subduing his Neighbours, and laid the first Foundation of that Monarchy. And these were the first beginnings, according to the report of the best Authors, of Political Rule and Political Subjection. Nor were they in those times, though the true Worship of the true God were altogether forgot, quite void of a sence of Religion. And therefore *Nimrod* being dead, for his great Prowess and admir'd Atchievements, after his decease was worshipp'd, though not by the Name, yet in the Person of *Saturn*. And the Statue of *Belus* his Successour promoted also to Celestial Dignity, was ador'd under the Name of *Jupiter*. Which is thought to be the Original of all the *Heathenish* Idolatry. For tho', as already hath been said, there was then a general Oblivion of all true Religion, yet they found it absolutely necessary there should be some sort of Religion conjoin'd with Policy, finding it so impossible they should be separate, and that they were so dependent one upon another, that neither could subsist without the other's support.

To this same *Ninus*, *Justin* seems to attribute what Scripture imputes to *Nimrod*. For first he asserts, that Kingly Govern-

Government was the most ancient in the
l. 1. c. 1. de leg. 3. World: *Principio rerum*, saith he, *gentium, nationumq; Imperium penes reges erat.* Conformable to that of *Cicero*, *Omnes antiquæ gentes regibus quondam pa-*
Sal. l. 1. *ruerunt.* Confirm'd by that of *Sallust*, *Initio reges diversi; nam in terris nondum Imperii id primum fuit.* Then he also pretends to tell us the Manners and Customs of those Times preceding *Ninus*, *That the People were restrain'd by no Laws, but that the Determinations of Princes were obey'd as such. That it was the Custom to Defend not to Enlarge their Empires. But that* Ninus *was the first who made War upon his Neighbours, and by subduing People unskilful in making resistance, extended the Limits of his Dominions, and violated the former Justice and Moderation of regal Power.* In all which it cannot be said that *Justin* was any where mistaken, but only in the Person of *Ninus*. For that the Antiquity of Kingly Government is unquestionable, and that so highly commended equality of Temper between Prince and People, by him suggested before the Birth of *Nimrod*, is not at all improbable. However, Scripture and *Justin* with others, agree all in this, that there was a Law in the

World

World from the beginning, tho' only of Reason and Nature, so long as Men obey'd in Quiet and Repose, and Princes Rul'd with Justice and Prudent Equity. On the other side, when Men were depriv'd of that Primitive Safety and Tranquility, Law ceas'd, giving way to War and Publick Devastation. Which Cessation of Law began in the time of *Nimrod*, and not of *Ninus*.

And certainly tho' the Nature of Man be in part corrupt, yet there are those Seeds of Virtue and Divine Reason still remaining in his Soul, which will not suffer him to deny, but that the real distinctions between Good and Evil, are Members of that True Reason, and Divine Knowledge, which were at first infus'd into him. *Cicero*, by a light more than Human, labours hard to make this out, that the Foundations of Law and Justice are fix'd in Man by Nature, and in that reason with which Man is naturally endu'd to difference Right from Wrong, Justice from Injustice, and Evil from Good. Seeing that Men are in the first place furnish'd and adorn'd with heavenly Gifts. Next, because there is but one consentaneous and common Method of Mens living one among another. And

De leg. l. 1.

in the third place, by reason that all Men are oblig'd and bound one to another, as well by a certain natural Indulgence and kindness one toward the other, as by the Tye of the Law. Which being granted to be absolutely true, how is it possible to separate Law and Right from Nature. And indeed should it be otherwise, it would fall out unhappily for the preserving the Strength and Unity of a Nation, or the People in their right Senses. Seeing that no Laws ought to be propounded, but such as are approv'd by those who believe all things just and honest to be desirable for their own sakes, and that nothing was to be reck'ned in the number of good things, but what was laudable in it self.

Again, if only Fear of Punishment, and not Nature, were the only reason that deterr'd Men from Acts of Impiety and Injustice, no Man could be properly said to be unjust; but the wicked were rather to be accounted inconsiderate and imprudent. Or if advantage and profit were the only Motives to do well, then were Men to be accounted rather subtil & cunning, than naturally and intrinsically just. Consequently the Law, tho' never so strict, has no effectual or valuable tye

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upon such persons, and the security expected from it, is in a manner rendred void to all Civil Society and Co-habitation. For what will not persons so principled adventure to act in the dark, when they are out of the danger of Witnesses, and by that means freed from the fear of a Judge? The Gyants of the old World had forgotten Nature, when they acted only by the sway of Arbitrary Will and Pleasure. For Nature proposes but one Law for the preservation of Mankind; that is, the right Method of commanding and restraining upon the solid knowledge of Natures Good and Evil. Which they who understand not, or at least neglect and scorn, must of necessity be unjust. And such were they who by neglecting Natures good and evil, ranvers'd the Laws of Human preservation, and ruin'd not only themselves, but all the Earth besides. Nor was it any Opinion or singular Judgment of their own, that could make their Actions just, seeing that all Virtue is inherent in Nature, and cannot be separated from it. Only Men may be so wicked as to despise Nature, and cry up that for good and honest, which is not so in

it self. Not considering that what ever is vertually good, must of necessity include within it self that which is without all contradiction to be valu'd and esteem'd. And thus in all Governments that pretend to right reason, tho' Circumstantial Laws may differ, yet the Law of Nature is immoveable throughout all Nations. Otherwise should one Nation think it lawful to Kill, another to Rifle and Steal, or another believe Perjury no Crime, not only Publick Commerce between Nation and Nation, but Private Dealing betwixt Man and Man would be at an end. Nor that Men were instructed of the Mischief of these things by the Conveniencies of peaceable Living one among another; but by the Dictates of Nature, and Impressions of right Reason.

Cicero goes yet a little farther, affirming, That it was the Opinion of the wisest of the Ancients, That *Law was never the Invention of Humane Wit*, but something *Eternal that govern'd the Universal World by the wise Conduct of Command and Prohibition.* Which supream and ultimate Law, was the Mind or Omniscience of the Deity, enjoyning or for-

forbidding all things according to reason. Wherefore that Law which Heaven imparted to Mankind, is rightly to be extoll'd, as being the reason and intelligence of a wise Man proper to controul and deter. Which Power was not only elder than the Age of People or Cities, but co-eternal with God that rules and governs both Heaven and Earth: for that neither can the Divine Intelligence be without reason, neither is it possible but that such reason should be incapable to determin what was good and what evil. So that had there been no Law against those who first were guilty of Murder, Envy or Malice, or any other sort of destructive Violence, this Law would have condemn'd them, as it did in *Cain*. In regard that same reason proceeded from the Divine Light of Nature, perswading Men to do well, and disswading them from evil, which did not then begin to be a Law, when it first came to be written, but when it first had a being; that is, from Eternity. Which being the Original of all upright and just Law, we must thence conclude, that the true End of all Laws, are the Safety and Welfare of those Nations, and the Peace and Tranquility of such

Societies for which they are ordain'd. Law being as it were the Distinction between the just and unjust, deriv'd, next to God, from the most ancient Fountain of all things, Nature to which all the Laws of Men, that punish the bad, and protect the good, should tend as to their center of Light and Information.

And this was that which the Poets meant by all their Fables of the *Golden Age*, which is describ'd by them to be a time when Men liv'd in Peace, Plenty, and Liberty, without written Laws, but by those Rules of Justice and Sincerity which Primitive Nature had planted in their minds, when it was a pleasure to Rule with Mildness and Equity, and without Care, keeping just Dominion within her proper bounds; and a happiness to obey without Disorder, Tumult and Contention, while *Astrea* her self held the Ballance of Authority and Subjection in an equal poise.

Which reverence of Law and Justice was not then committed to Parchment, nor cut in Brass, but imprinted in the Hearts of Men: According to that of *Virgil*,

——*Neve*

——— Neve ignorate Latimos
Saturni Gentem, haud vinclo, nec legibus æquam
Sponte sua, veterisq; Dei se more tenentem.

And *Hesiod*, also describing the *Golden Age*, says, that they liv'd like the Gods, ὥστε θεοὶ δ' ἔζων —— ἀκηδέα θυμὸν ἔχοντες, without care or fear. For most certainly they who are constrain'd, through fear of punishment, to live according to the Integrity of written Laws, not out of a spontaneous probity, cannot be said to be good or virtuous Men, seeing that they who forbear to commit evil, through fear of punishment, cannot be said to be really good, but only not to be evil. They are only said to be good Men, who by the conduct of Nature, and not to avoid the lash of Human provision against Vice, bend their minds to practice Honesty, Virtue, and Justice. And thus this *Golden Age* continu'd, till *Jupiter*, ambitious of Empire, overturn'd this Harmonious Frame of Nature's Law, and expell'd his Father from his Kingdom.

Πργ. καὶ Ἡμερ. l. 1.

Tibul. l. 1. *Tunc Jove sub Domino cædes & vulnera semper.*

——Tunc Lethi mille repente viæ.

Which is no more than this, that after the *Golden* Reign of *Noah*, the Earth was fill'd with *Iron* Violence, by *Nimrod* and his Successors. Yet as *Jupiter*, by his Example, taught those that came after him to lay violent hands on Thrones and Scepters; so may good and virtuous Princes be said to restore, as it were, so many *Golden Ages* at least within their own Dominions, by making wholsom Laws for the benefit and security of the People. For tho' the Tyranny of *Jupiter* chac'd *Astrea* from the World, yet it is said, and the Allegory may well hold, that she left behind her, as her Legacy, that Primitive light of Nature and right Reason, which they who follow closest may be accounted the nearest Restorers of the Primitive Purity and Innocence of Law and Justice. And for this reason some will have the *Golden Age* to be no other than the Common Liberty of People in a Common-weal, establish'd and secur'd by wholsom Constitutions; where *Hares* with *Hounds*, *Sheep* with *Wolves*,

Wolves, converse together with freedom and safety, under the protection of good Laws.

This is then the difference between the Primitive Ages of the World, and those that succeed. At first the Natural Inclination of Man to Good, and his Aversion from Evil, govern'd his Actions so exactly, that there was no need of any other Law, than that Law of Nature which was imprinted in his mind. Afterwards when Ambition, Pleasure, and Profit, had, it cannot be said extinguish'd, but only eclips'd that Light of Nature, then Men resolv'd they would not see or understand what Law was, until they saw it first put down in Writing, and obedience thereto commanded, under such and such Penalties. So that before there were none at all, now there was an absolute necessity of written Ordinances and Constitutions.

And indeed it was high time to set up Law and Government, when Wrong and Injury did so infest the World, that there was no security of Liberty and Property, but what Law and good Government procur'd. From which Men reap'd those vast Advantages, and superlative Benefits, that then they began to acknowledge

ledge the Sacred Original of Nature's Law, as descending first from Heaven. Therefore was *Themis* presently exalted to be a Goddess. No less than the Wife of *Jove* himself, and said to be the Mother of Εὐνομία, Δίκη and Εἰρήνη, or Law, Justice, and Peace, as *Hesiod* witnesses. And Law or *Eunomia* is made the eldest Sister, whom *Pindarus* calls σώτειραν, or *servatricem*; as well knowing that the making and observance of Good Laws are the preservation of all Kingdoms; without which they would soon fall to ruin. He also adds the Epithite μεγαλώνυμον, in regard that good Laws bring both Honour and Glory, as well to the Legislators, as to the Observers. In another place the same Author, applauding *Law*, entitles her the Queen of Cities. And *Homer*, speaking of *Jupiter*, does not attribute to his Divinity, the giving to Princes and Sovereign Rulers, the Destructive Instruments of War and Bloodshed, but his arming them with Laws and Justice. And therefore it was the saying of the Orator *Demosthenes*, that Law was the *Soul* of a City: seeing that as the natural Body of Man could not subsist, without a Soul, so without Law and Justice, Cities and Kingdoms, and all

Hes. Theog.

Pind. Ode. 9.

Politic

Politic Bodies, were but as expiring ſlumbers, which nothing can preſerve from Politic Death. And thus the Primitive Light of Nature and right Reaſon was in ſome meaſure recover'd from that neglect and oblivion which had overwhelm'd it. For that this written *Jus*, or *Genus* of written Law, had the ſame Original with the ſpontaneous and harmonious Concord of the *Golden Age*. Seeing that if all Men at that time had been principl'd like their Legiſlators, they might doubtleſs have liv'd in the ſame happy Eſtate and Condition, as their firſt Fore-fathers.

By which *Encomiums* and high Applauſes of Law and Government, it appears, that the End of all Law is in general the preſervation of Mankind; more particularly of all Publick Weals and Societies of Men.

Among thoſe that firſt made uſe of written Laws, are reck'ned the *Locri Epizephirij*, as *Strabo* relates. A flouriſhing People once in the farther part of *Calabria*, in the Kingdom of *Naples*, not far from the Promontory, now call'd *Punta di Saetta*. *Pindarus* gives them a high Commendation in theſe words, νέμει γὰρ ἀτρεκεία πόλιν Λοκρῶν, *Truth governs*

L. 6.

Ode. 10.

curvis the City of Locri. So careful had *Zaleucus* their Legislator, been to pick and cull the choicest of their *Cretan*, *Lacedemonian* and *Athenian* Customs.

But Scripture, of indisputable Authority, tells us that in the time of *Moses*, the first Law-giver in the World, the Decalogue was written in Tables of Stone, and for the rest of his Constitutions they were also otherwise committed to Letters, as being too prolix to be preserv'd by Memory or Tradition, and the Original Copy'd up in the Ark, by the command of *Moses*, where the *Levites* might have recourse to it upon all occasions; who also had it in Charge to read it in the hearing of all the people at the end of every seven Years. And certainly there never was a nobler mixture of Civil and Ecclesiastical Sanctions, all tending to perpetuate the Establishment of the Jewish Nation; nay, they had the absolute promise of God for their Duration, upon the bare condition of Dutiful performance. All the encouragement of Victory, Plenty, Peace, Renown and Liberty to the Observers of this Law; and on the other side, all the fair warnings of that Misery and Destruction that would befall them, if they re-

revolted from it. And to preserve them from all occasions of going astray, the strictest injunctions and prohibitions that could be devis'd, were laid upon them against Idolatry. To which purpose they were as streightly commanded not so much as to cast their Eyes upon the alluring Beauty of strange Women; and as expresly inhibited from the use of such Diet and Meats, both Flesh and Fowl, as by their lushious moisture and extraordinary nutriment excited the heat of their natural Incontinency; and as a farther bar to Foraign lust and female communication, the *Pander* to Idolatry, they were permitted to take as many free Women and Bond Servants of their own, as their Revenues would allow of. In a word the whole scope of *Moses* Law, the sole intent of all his Constitutions both Ecclesiastical and Civil, was for the glory of God, the safety and preservation of the whole Nation in general, and the security of every individual person in particular. That by the Observation of the *words* of his *Law*, which as he told them was *their Life*, they might *prolong their daies* in the Land which God had given them; *That Israel might dwell in safety alone*, that the *Fountain of* Jacob

might

might be upon a Land of Corn and Wine, their *Heavens drop Dew*, and they themselves *tread upon the High Places of their Enemies*. In which words are summ'd up all the blessings that can befall a free Nation under good Government. Yet all this while, for all his pains and travel, for all his restless Study, and incessant cares, for his prophetical Blessings upon every particular Tribe, for his attoning even God himself, upon their hasty and rash erection of the *Molten Calf*, he does not exact one single kindness for himself or his Sons; but as if the *Laws* of God had been the only Successors which he took care of, enjoyns Obedience only to them as well to the chiefest in Authority, as the meanest under Subjection.

And thus *Moses* having fitted them for peace by *Laws* and *Statutes* that gave to God his own establish'd Reverence and Worship, to the Church her due, to the people their just Rights and Priviledges (not excluding the Daughters of *Zelophahad* from the Inheritance of their Male-issueless Father) *Joshua* was next appointed by God, who had inspir'd him with Valour and Conduct fit for so great an undertaking, to lead them in the Field. Yet not so, but that although the

the people hearken'd to him in reference to Military Affairs, yet in other things they *did as the Lord Commanded* Moſes.

But *Moſes* had the pre-eminence above all that came after him: He had the ſupream Oracle of the World to conſult upon all Occaſions. The pretences of Others were but meer Impoſture, and *Delphian* Figments. Which however it is not improbable but that they might have learnt from the obſcure and imperfect knowledge which they had gather'd among the *Egyptians* of the Story of *Moſes*. And therefore *Rhadamanthus* among the *Cretans* is ſaid to have faign'd a Familiarity with *Jove* in *Jupiter's* Den. *Numa* pretended to frequent conſultation with the Goddeſs *Egeria*. He firſt Civiliz'd the *Romans* by introducing among them the practice of Religious Ceremonies, and the worſhip of the Gods. To which *Serv. Tull.* added ſeveral Inſtitutions relating to the Civil Adminiſtration, *Ut quemadmodum Numa divini auctor Juris fuiſſet ita Servium conditorem Omnis in Civitate diſcriminis, Ordinumque, quibus inter Gradus Dignitatis, Fortunæque aliquid interlucet, poſteri Fama Ferrent.* Which *Laws* were afterwards collected and digeſted into a Method by *Papirius*, from it

Liv. l. 1.

it was call'd *Jus Papirianum*. But the chief of the *Roman Laws* were those that were contain'd in their Twelve Tables cut in Brass; of which ten were compil'd by the *Decemvirs*, after the return of those Embassadors which were sent by the Senate to *Athens* to Transcribe the *Laws* of *Solon*, and of those other Cities of *Greece* which were most famous for the Excellency of their Government; to which soon after two others were added. Of which Ten Tables *Livie* writes that
L. 3. 34. in his time, when there was such a prodigious pile of *Laws* heap'd one upon another, they were still the Fountain of all the *Roman* Equity. And it is observable that when the *Decemvirs* first propos'd them to the *People*, they commanded them to consider 'em well, that there might be nothing but what was for the good and prosperity of the Commonweal and their posterity. For that as much as lay in the wit of Ten men, they had adapted the equality of the *Law* with the same respect to the meanest as to the most Wealthy and Noble.

Lycurgus boasted *Apollo* for his grand Associate, and made the World so far believe it, that both *Plutarch* and *Strabo* confirm it, and *Herodotus* tells ye the very

Verses

Verses with which the Priestess of *Delphos* congratulated him at his Entrance into the Temple, wherein she gave him the Title of Διὸς φίλος, *the Friend of* Jove, and all the Gods besides. And most certainly he was a Person of exquisite Justice, as appear'd in the preservation of the young Prince *Charilaus*, whom his Mother offer'd to stifle in her own Womb, and to give him possession of her self and the Kingdom, if he would have Marry'd her. And therefore fit to give Laws to a Kingdom that could refuse one, when it was thrown into his Embraces. Neither could any thing be more signal than his Love to his Countrey, while he so laboriously turmoil'd not only to advance but to perpetuate the felicity of the *Lacedemonian* Kingdom. *Justin* says of him, that he was not more famous for the Invention of his Laws, than for the Example which he set in his own Person, for that he never decreed any Law against others, which he was not most punctual to observe himself. *Populum in obsequia Principum, Principes ad justitiam Imperiorum formavit.* In which words, could they be but faithfully and candidly extracted, lies that grand *Arcanum*, the True

Ballance between Dominion and Subjection.

He so endoctrinated his *Lacedemonians*, that they should neither be willing, nor indeed know how to live asunder; but that, like Bees, they should always stick to their Hives, and be always ready about their Prince to receive and execute his Just Commands.

Neither did he care to put his Laws in Writing; as judging that those things which most conduced to the felicity of the City, and the bravery of the Inhabitants, were to be planted in their Minds by Education and Custom.

At length, having done as much as he thought could be done to advance the Glory and Renown of his Country, and the Welfare of the Realm, that he might render the effects of his labour diuturnal, he assembles the People, and takes an Oath from the highest to the lowest, that they would observe the Form of Government which he had establish'd among them till his return; for that he was then going to consult the Oracle, about something farther of great Importance for the Common Good. To the Oracle thereupon he goes, and after Consultation, sends back *Apollo's* Answer,

that *Lacedemon* should flourish so long as they observ'd *Lycurgus*'s Institutions; which done, he starv'd himself to death at *Delphos*, that he might not absolve the People from their Oaths by his Return.

Solon also refus'd the Kingdom of *Athens*, when he might have had it. A Person of that extraordinary Justice, that he is by the Historian said to have made *Athens* a new City, behaving himself with that equal Temper between the Senate and the People, that both himself and his Laws were equally grateful to both. And *Lucian* also brings in *Anacharsis*, highly commending him, as one that had fram'd most excellent Laws, and introduc'd most useful Customs into the Country where he liv'd, to the great benefit of the Publick. Which Laws, as *Lucian* afterwards, in the same Dialogue, makes *Solon* to acknowledge, were publickly expos'd in the City of *Athens*, for every one to peruse, that so they might understand when they did well, and what they were to avoid. He could not 'tis true reduce the *Athenians* to that austerity of living, to which the Institutions and Education of *Lycurgus* had enur'd the *Lacedemonians*, as being

Justin. l. 2. c. 7.

Dial. de Gymnas.

of a quainter and more airy *Genius*, where *Mercury* had an equal ascendant with *Mars*, and would therefore have an equal share in the publick Concerns. Yet the renowned Captains that *Athens* bred, the many and famous Victories which they won, the Learning of her Philosophers, the Liberty of the People, and the long flourishing Estate of the Government, make it appear that there is more than one way for a Nation to be happy by her own Laws. And that Laws agreeable and consentaneous to the Temper of one People, will not correspond with the Humour of another. On the other side, when a Kingdom is once establish'd under settled Constitutions, which are found to suit with the Disposition of the People, those Constitutions are the Safety and Protection of that People, and the Change of such Ordinances has been always the fore-runner of their destruction, as by History has been fatally verify'd in the *Athenians*, *Lacedemonians*, and *Romans* themselves.

But they who laid the Foundations of Despotic Tyranny and Absolute Dominion in War and Devastation, cannot be said to have those noble aims of bequeathing Liberty and Safety to the People

People under their Subjection: but only the advancement of lawless Power, as believing all Mankind besides to be their Vassals and Slaves: and therefore in the heighth of their over-soaring and presumptuous Mortality, calling themselves Lords of the Earth, and Kings of Kings, which swelling Titles were derided in *Alexander*, tho in the midd'st of his Victories, by his Followers better observing the Laws of Nature and Reason. All this while they disregarded the equal distribution of Right and Propriety to any, and deny'd the Priviledge of Liberty to all, while most liv'd miserably, and contemptibly, none liv'd free. This unhappy Bondage the *Europeans* contemn'd. While *Cotys* refus'd to worship the *Persian* Monarch in all his Glory, and *Manius* the Consul, call'd the *Asiatic Grecians*, and *Syrians*, *Levissima Hominum Genera & Servitutis nata*. For here was no Safety, no Security for the People, whose Lives were at the Mercy and Beck of one Man. They Till'd the Earth and Labour'd only for him; they got Posterity only for him to sport away in the bloody Games of War and wilful Vexation. Whereas in well Constituted Governments, the People enjoying all those

Just. l. 6. c. 2.

Liv. Hist. l. 36.

Priviledges with which they are satisfy'd themselves, by the same Law that warrants their security are bound to pay the Homage of their Obedience to the Prince, for his continual Care of their safety. And Princes can claim a security of their own, without fear or hazard, which Tyrants in continual distrust and jeopardy are forc'd to hire and largely pay for. Thus if we consider the mighty *Ottoman* Empire, we find him indeed expanding his vast Dominion over the largest part of the habitable World, yet through those Violences which his Inhumane Constitutions of Self-safety commit against the Dictates of Nature and Primitive Reason, he may be said to be an Emperour rather over Solitudes and Deserts, and the wild Beasts that ravage the forsaken Habitations of Mankind, than the potent Lord of Numerous Cities. He is indeed surrounded with populous Guards; but what are they? the inforc'd Tribute of Christian Children through the neighbouring Territories under his Subjection, who are more his Lords and Masters, than he theirs. If those his own Domesticated Lyons once begin to roar for want of Pay or other discontent, all his Majestic Titles

tremble

tremble: and he must appease their fury with the Heads of his best beloved Favourites. His Armies, a confus'd Rabble of several Nations brought together to stop the Mouths of Cannons, and overbear his less powerful Adversaries with the weight of Multitude. In whom there is no faith or confidence neither, as not being reciprocally oblig'd by any Act of Kindness which his care confers upon them; and therefore following him for Fear, not Love. And then their own Thrones so tott'ring, that they never think to see fix'd, till they have cemented them to the Floor with the Blood of their Brethren, or oblig'd their Stipendiaries with a Magnificent Overplus, like *Amurath* the Third. And yet notwithstanding all their Care and Courtship and *Ibrahim* lies strangled at the feet of his Stipendiaries. In a word, the Emperours Will is his Law, a *Capricio* luteſtrings the most deserving of his Princes. And to preserve himself in this excess of Arbitrary Power, he deprives the People of their self-Defence, their Arms, and puts them under the domineering Masterſhip of Christian Apostates. So that in short, all things are carry'd on for the sole benefit and advan-

Thuan. l. 104.

rage of the Tyrannical Monarch, without any regard to the good and welfare of the People; contrary to the true end of Law and Justice, which equally respects the good of all, and therefore advances the Shepherd, to take care of the Flock.

As for the *Persian Monarch*, it is accorded on all hands, that his Dominion is not altogether so uneasie to the Subject, however he is an absolute Tyrant, the People enjoying nothing of their own, but what is absolutely at the disposition of the *Saphi*. And the Constitution of the Government is wholly such as mainly aims at the profit of the Sovereign, with little regard to the safety and well-being of the People: nor is there any other Method or distribution of Publick or Common Justice, but what lies solely in the breast of the Emperour. His Princes, like those of the Grand *Turk*, are his Slaves, and he sends for their Heads as he pleases himself upon the least jealousie or distaste; nor does the Despotic Tyrant think himself obliged to give the World satisfaction for what he does. So that *Sha Shepoi* is said to have carry'd his Scimitar always ready drawn in his bosom, to cut off the Heads of his Nobles upon every

every slight occasion. Yet is he for this never a whit the safer; as being harrass'd with frequent Rebellions of his *Shans*; and *Emir Hemptza Mirza* had the sad fate to have his Throat cut by his Barber, by the Command of his great Officers. Which is confirm'd by *Thuanus* in these words, speaking of the *Persians*, *Crebræ inter eos contra principes suos conjurationes; nec in Regia Familia inter fratres aut filios cum patribus Pietatis Officia constant.* So little does Arbitrary Power avail to the Security of a Prince.

The *Great Mogul* is said to be a meer Sponge, that sucks away all the Wealth of his chief Governours and *Cans*, after they have squoez'd out the very Heart-blood of the People. Who may be only said to Sow, the *Cans* to Reap, but the *Mogul* himself to reap the Harvest. And thus he supports his Grandeur by the Misery of his Subjects. And yet for all his Guard of 30000 Men watching Day and Night about his Person, he is forc'd to part with his Command sometimes to his rebellious Peers, sometimes to his undutiful Sons. And *Aurangzeb* now holds, or lately held the Scepter of that vast Empire wrested out of his Father's hands.

The

The *Ethiopian* or *Abissinian* Potentate, commonly, tho' erroneously, call'd *Prester John*, is so absolute, that none of his Subjects, whether noble or *plebeian*, can claim any Propriety in what he enjoys. Which is the reason that they adore their Prince as their absolute Lord and Master, as being perfect Slaves to his Will and Pleasure. Yet notwithstanding all their absolute Dominion, none less secure in their Thrones than the *Habessinian* Monarchs. As the stories of *Menas*, slain in battel by his rebellious Subject *Bernagassus*. *Jacob*, Crown'd, Depos'd, Recall'd, and Redepos'd by his own Nobility, and the frequent Rebellions against one of the best of their Emperours, *Susneus*, sufficiently declare. Fatal Documents that the slavery of Subjects is no such protection to regal Power, as vainly some imagin.

Thus it appears upon what Foundations stands the absolute Dominion of the *Asiatic* and *Ethiopian* Monarchs. Their Subjects are made a Prey, as having no refuge to the Sanctuary of known Laws, and Soldiers of Fortune are the Pillars upon which they depend. For it is necessary that the Power of Princes be sustain'd by the Love of their Subjects,

or

or of others. For he that is fear'd by all can assure himself of no long continuance. But when Tyrants can promise to themselves nothing of security from their Subjects, whom they treat as their Slaves, there is a necessity for them to guard themselves with Forraign armed Forces; and to merit their favour, to allow them their full swinge of preying upon, and insulting over their Subjects. Thus the *Turk* supports himself by Janizaries, who know not only no other Lord, but indeed scarce any other Father than himself, and therefore he indulges them in all things to preserve their affection. And the Kings of *Orixa*, *Camboya*, *Decan* and *Achen* commit the management of their Affairs to their Slaves. Whereas a lawful and just Prince takes care to be belov'd by his own Subjects, as being the safest Bulwark against his external and domestic Enemies. Nor is there any better or securer way to gain the Affections of a People, than by protecting them under the rules of their ancient Customs and Constitutions.

The *Europeans* are of a more fierce and haughty temper, and were always more impatient of servitude. Tho some of them much more than others. In which variety

riety we may easily observe those Princes most secure, where the Laws and Constitutions of the Realm are most sincerely adapted for the preservation and welfare of the People.

The *Spaniard* takes the first care of himself, in the next place indulges his Nobility, and takes the least care of his People. The Nobility and Clergy get all, being altogether Tribute free; the People lose all, being so intolerably burden'd that they are forc'd to forsake the Tillage of their Country, not being able to support their Families. Hence a scarcity of the People, and the strength of the Kingdom weaken'd. Hence the *Castilians* out of their natural Pride no great Lovers, sometimes contemners of their Prince.

Alderburgh. T. 2. p. 166.

The *Arragonians* cannot forget the loss of their ancient priviledges. The *Catalonians* impatient of their Subjection, as they have made apparent by their late revolts. The *Neapolitans*, *Sicilians* and *Milanese* unfaithful and tottering upon all opportunities; as finding themselves reduc'd to misery to enrich their Oppressors. And what he has got by the neglect of his People, and by Riding with so strict a Curb, is sufficiently

ently known to the most meanly read in modern History.

As for the *Portugals*, the Scope of their ancient Government was the joynt regard equally both of the Prince and Peoples safety; for som time interrupted under the *Spanish* Usurpation, but afterwards restor'd by *John* of *Braganca*. Therefore such is their Love to their natural Princes, such their hatred of the *Castilian*, that *Thuanus* said of them, *in quorum animis incertum plus ad insaniam usq; improbus in reges suos amor, cum implacabile Hispani nominis odium valeat.* Him they Defend, him they Adore and Honour, because under him they live in plenty and freedom govern'd by just and equal Laws. And if their Country be not over-abounding in People, it is to be attributed partly to the heat of the Climate, but more especially to their draining their own Country to supply their great Navies, and more beneficial acquists in other parts of the World.

Olden. T. 1. p. 370.

Lib. 126. circa fin.

And that the safety of Prince and People are equally sought in that Nation, appears by the Laws to which King *Philip* was sworn in the year 1580. Nor is it a mean sign that the Laws are good and wholsome, when they agree with the Con-

Confirmation of the People. The health and soundness of a Common-weal appears in the health and vigour of its particular Members. It being the Maxim of Tyranny, only to keep the Subject poor. To which *aura vis, & opes infensæ*, saith *Tacitus*. *Nero* never gave to any Favorite any great employment, but he added, *Thou knowst what we want. Let us take care, ne quis quidquam habeat.* And it is a Proverb relating to the great *Turk*, *That where he has once trampl'd, there neither grow Leaves nor Grass.* On the other side, we find with what a torrent the *Portugals* bore down all before 'em to recover their ancient Laws, and the Soveraignty of their lawful Princes, from the servitude and oppression of the *Spaniards*; insomuch, that when the Duke of *Bragance* had once declar'd his mind, the revolt was universal, and with such a rapid motion, that one single day determin'd the contention with little blood; so swift and astonishing was the surprize. Nor must we forget how impatiently this Nation bow'd under Usurpation; how hainously they bore the exilement of his present Majesty, and the loss of their ancient liberties, almost buryed in a most impious

Tacitus Ann. l. 11. c. 1.

Annal. l. 11. c. 1.

Sueton in Neron.

pious Tyranny, not ceasing till they had recover'd both their Prince and their Laws, to the unspeakable joy of the whole Kingdom.

In *France* the King is Absolute and Arbitrary. His word is the Law. He may thank *Lewis* the XIo for laying the Foundations, and *Richlieu* and *Mazarine* for perfecting the work. However, as it is brought about, the Finabdause of the *French* Government, at present, is the Grandeur of the Monarch; for the support of which, the welfare of the People is but trampled under Foot. The King squeezes with his Exactions, the great Lords and Gentry for their Rents, till the Commonalty are reduc'd to utmost penury. For which reason *France* is compar'd to a most flourishing plain, that feeds innumerable Flocks of Sheep, which are to be fleec'd when the Shepherd pleases. He is never safer than when he is in War, to keep his haughty Nobility from hatching mischief. But his own Subjects being so cow'd and out of heart for Infantry, he is forc'd to hire among his Neighbours, and Skins the servile Peasant for their pay: by that means dilating his Territories to the intolerable detriment of his enslav'd People. *Olden.* T.2.

ple. Only they are happy, because they know no better.

Olden. T. 2. In *Swedeland* it is quite otherwise; for there the King is bound to govern by the Laws of the Country, which he has no power to alter without the consent of the People. So that the Character of the *Swedish* Government is this, That it aims more at the welfare of the Subject than the Interest of the Prince. And therefore it is observed, that no Commonalty in the World live more happy than they. Which renders them stout defenders of their Country, and formidable to the most formidable of their Neighbours.

The *Danish* Government regards the Common Interest of the People, who are govern'd by the ancient Laws of the Country; which the King is sworn to observe at his Coronation. Therefore the People thrive, and live in a plentiful and flourishing condition.

Whether the *English* imbib'd their love of Liberty from their ancient Ancestors the *Danes*, is not material here to discuss. Yet certainly no Nation under Heaven enjoys those Rights, those Privileges, that uncontroul'd Propriety with more ample provision, and careful

circum-

circumspection of Law, or a more equal ballance between the Prince and the Subject, than the People of *England*; which makes them jealous of their infringement, sometimes even to excess. For the Laws of *England* are made with the consent of the People themselves. By which means they prevent the imposing any oppressive Burden upon their own Shoulders. So that it may well be said, that the safety and security of the *English* People, their Lives, their Liberties, and peculiar Properties, are as it were entrusted to the Guardianship, and deposited in the keeping and defence of Laws and Constitutions of their own framing. Not of yesterday, but deriv'd from the provisions of distinct Legislators and Princes, from the most ancient to these present times, carefully deliberated and debated among the most eminent for Wisdom and Counsel in the Nation. The want of Laws in the greatest part of those Governments already recited sufficiently declare, how little the People have to trust to, that are only govern'd by Will and Power. On the other side, those People who are govern'd by Kings, not Tyrants, are the most happy; and those Kings approach

neareſt to the King of Kings, who govern like Shepherds not like Wolves. Which is the reaſon that *David* calls *God* himſelf the *Shepherd* of *Iſrael*. Now then the Common good being the Rule and Quadran of good Government, the better the Laws are, and the more they tend to the Common good, their ultimate end, the better muſt that Government be; in regard that where the Law is predominant, the *Common good* can receive no injury: and where the Common good is ſo ſecur'd, there the People are ſafe in all things that concern their Civil welfare. And in this appears the excellency of thoſe Laws that mainly deſign the common Benefit, that they reſemble neareſt the Laws of God, whoſe Diſpenſations of Juſtice were the ſame to the Peaſant as to the Prince. And as it was moſt certainly a greater Prerogative of the *Hebrew* Kings above all other Kings and Monarchs whatſoever, that they govern'd by the Law of God, ſo does it not admit of much diſpute, whether the Monarchs of *England* may not claim a Prerogative of the ſame kind over all other Potentates, by governing by a Law, the neareſt to Divine of any extant: more juſtly far deſerving the Title of *moſt Chriſtian* Kings, than

they who glory only in commanding numerous swarms of Slaves. But where the National Constitutions of a Kingdom have so interwoven and twisted the Interest of Prince and People, that they are inseparable without detriment to both; there the Laws are the safety of the Prince, and the security of the People; and as the ballance kept but duly even, render's the Obligation and reciprocal relation between the one and the other indissoluble, so it perpetuates their mutual happiness and tranquility.

Now the People claim their security by the Law from the equal distribution of Justice, the preservation of their Freedom and Proprieties, and protecting the publick Peace from Tumult and Disorder. On the other side, the Prince expects all due Obedience from the People in the execution of the Law, and an exact condescension to his just Prerogatives, without which his Authority lessens, and grows into contempt. The Laws of *England* ordain to these ends, a limited Authority to the Prince, and a confin'd freedom to the Subject; thereby providing at one and the same time, for the safety of the Prince and the security of the People. For it is as equally

dangerous and wicked for the People to deny the Prince his juſt Prerogatives, as it is of ill conſequence to deny the People their Freedoms warranted by the National and Fundamental Laws of the Land. We are then to believe that the Princes juſt Prerogatives, and the Peoples ſafety, are the common Good of this Nation; and that their Lives and Fortunes equally depend upon thoſe Proviſions which the Law has ſo equally made for the ſecurity of the whole Body of the Commonweal, of which the Soveraign Prince is the Head.

It is one of the Excellencies then of the *Engliſh* Laws, that they provide for the Common good, which is the end of all true Law. For this is the general Axiom, That the Reaſon and Subſtance of Law, demands that every part ſhould be fram'd for the Common Benefit, which was the Condition that *Alphonſus* King of *Spain* requir'd alſo in his Laws. And thus it is underſtood by the Interpreters of the Civil Law, who affirm that the Law is a common Precept, reſpecting the Benefit of all. *Ariſtotle* obſerves, that the chief end of a Commonweal is to live well and happily. And therefore adds, *That the Laws are to be accommoda-*

Greg. Lop. in l. 9. tit. 2. part 1.

Ethic. l. 4. c. 1.

ted

ted to the Commonweal, not the Commonweal to the Laws. *In my opinion,* saith *Plato, the Law is made for Benefits sake, as intended by the Legislator to be the supream happiness of a Commonweal; for the Law being taken away, there is no well being in a City.* And in another place he shews at large, that the end of Law is the common safety and felicity. And *Plutarch* tells us, That Laws are then accompted good and wholsome when they procure the public Benefit. *In Dialog. Hippia.* *In Problem. tit. 40.*

Which is evident from the most sacred Laws of the Almighty. For though they be ordain'd to the honour of God (for that God cannot will any thing without himself; nor operate, but for himself) yet in those Laws the great Monarch of Monarchs, seeks not his own Benefit, but the good and felicity of Mankind. Which then also the Laws of Man most nearly imitate, when they drive neareſt to the same Perfection. Therefore as Laws are impos'd upon a Community, so are they to be fram'd for the good of that Community: otherwise they are irregular. For it is against all rectitude and justice, to direct the Common good to private Interest, or to make the whole relate to the part, for the parts sake. And there- *Suarez l. 1. c. 7.*

fore when the Law is fram'd for a public Society, the good of that Society ought primarily and principally to be procur'd. The ſame thing is apparent from the Order of final Cauſes. For the end ought to be proportionate to the act, its beginning, and its virtual efficacy. Now the Law is the common rule of moral actions; and therefore the firſt principle of moral actions ought to be the firſt beginning of the Law. For in Morals, the End is the beginning of Operation, and ſo the ultimate end is the firſt beginning of ſuch Operations: But common good and felicity is the ultimate end of a *Commonweal*; therefore, that alſo ought to be the beginning of the Law, and therefore the Law ought to aim at the Common good.

This is illuſtrated by St. *Auſtin*, who collecting a Conſequence, from the *Relation* of the *part* to the *whole*, argues, that a *Maſter of a Family* ought to take his pattern from the public Laws, and ſo to govern his Houſe, as to be conformable and agreeable to the public Peace. Therefore ought the public Laws to give a good Example of public Benefit, and common Safety, that Domeſtic Government may not be ruin'd by a bad Preſident. *Suarez*

Suarez brings another reason from the Original of Law, For that the ruling power which is in Men, is either immediately from God, as in spiritual Power; or from men, as in Power purely temporal. But both ways, such Authority is given for the publick advantage of all in general. For therefore are the Rulers of the Church call'd Pastors, because it behoves them to lay down their Lives for their Sheep; and Dispencers, not Lords, and *Ministers*, not *Primary causes*; and therefore they are oblig'd to be conformable to the *Divine Intention* in the use of such Authority. Therefore also are the supream Magistrates call'd the Ministers of the Publick: as not being created for their own benefit, but for the advantage of them from whom they derive their Power. They are also call'd the *Ministers* of *God*, and therefore ought to use the Power entrusted in their hands in imitation of the King of Kings, who in his Government, solely respects the common good of Mankind. For which reason St. *Basil* makes this distinction between a Tyrant and a King, that the one seeks his own proper advantages, the other labours chiefly for the common good and benefit of all his Subjects; not

Suarez l. 1. c. 7.

excluding himself, as being the supream Member, and consequently the first that ought to share in the publick and general Emolument.

The reason why so few People attain this *summum bonum* of Government, appears by the ways of practizing Dominion already recited; the want of a due poyse between Rule and Subjection. For in the Arbitrary *Eastern* Monarchies, the People are altogether Slaves, and may be only said to live, not to live with any comfort or enjoyment of themselves. In the Elective Kingdom of *Poland*, the Nobility carry such an unbridl'd sway, that the King is but a Cypher, a King and no King; which subjects the Royal Soveraignty to such an insufferable Bondage, that the Title is hardly worth the acceptance of an *English* Knight. A King in subjection to many Kings. And all this while the People live miserably under the Slavery of a many-headed Tyranny.

The Emperor is so overmaster'd by his *Golden* Bull, and so hamper'd with *Electors* and *Dyets*, that in the most emergent affairs, the slowness of deliberation, many times renders him useless to his Friends, and his Authority cumbersome to himself. So that he never moves

but

but like a Clock, when his weights are hung on. Such clogs upon Soveraignty, are frequently the ruine of great Atchievments. Neither do the Laws of God any where enjoyn the Kings of *Judah* when they should make either War or Peace.

The *Ephori* were added as a check to the *Lacedemonian* Kings. Which tho' it grieved the Wife of *Theopompus*, who upbraided her Husband for suffering such an Eclipse of his Authority, yet was not *Theopompus* of her mind; who return'd her answer, *So much the greater, by how much the more lasting.* And this Remedy saith *Plutarch*, was invented by the *Lacedemonians*, to prevent the evil accidents and ruine that befell the Kings of the *Messenians* and *Argines*, who lost all for obstinately refusing to condescend a little to the Grievances of the People. *Plut. in vit. Lyc.*

The *Romans* were terribly pester'd about keeping the ballance even between the People and the supream Magistrate. For after they had ingratefully thrown out the Regal Government, which had laid the Foundations of all their Grandeur, they betook themselves to their Annual Consuls; but when the Nobility

lity had engross'd that Office to themselves, the *Plebeians* began to wince at their Oppression, and departing to Mount *Aventine*, threatned the *Roman* Nobility to forsake the City unless they releas'd them of their Burthens. Thereupon the *Tribunes* of the People were invented to be Protectors of the Commons (for I omit the Consular *Prætors* and *Decemvirs*, as of no continuance) but their Power was over-large, and they rastl'd with Authority at too high a rate. Sometimes the Tribunes, saith *Tacitus*, were mutinous and head-strong, sometimes the Consuls prevail'd, whence Civil bloodshed and slaughter, even in the heart of the City. Till at length *Marius* one of the meanest rank of *Plebeians*, and *Sylla* the most cruel of the *Nobility*, turn'd the *Roman* Liberty, vanquish'd at length by both their Arms, into Arbitrary Dominion. After which, no other Contests but those of Ambition. So that it is apparent that the *Romans* lost their Liberty for want of the Tribunes prudent management of the Ballance which was put into their hands, whereas the *Ephori* knew the Limits of their own Authority, as well as the Bounds of that Power to which they were

were appointed as Assistants and Moderators.

Nor is this *Equilibrium* in Government an airy Notion or *Idea*; It may easily be found in the moderation of our own Laws, wherein there is that veneration of Just Prerogative, and that care of the Peoples Rights and Liberties, that did not sometimes Popular Affectation, sometimes the Ambition of evil Ministry shog the Beam, it would be a difficult thing for Soveraignty to find an occasion to complain, or subjection to murmur. And for this excellency of our Laws, we are chiefly beholding to the prudence and moderation of our own Princes. Two such Celestial Virtues, that of the whole Succession of *Roman* Emperors, they render'd only *Vespasian*, his Son *Titus*, and *Antoninus Pius* the most Illustrious Monuments of the Imperial Dignity. Neither is good Government any other thing than *Justice* by another name; which is always pictur'd with an even Ballance in her hand. And that high Character sounds like somewhat immortal, given of *Hiero* King of *Sicily*, that he was, *justus in negotio, in imperio moderatus*. Of whom *Livy* also reports, that he would have made the *Romans* *Justin.* l. 23 c. 24

his

his Heirs, that he might leave the *Syracusans* in the same Liberty which for fifty years he had maintain'd among them. In all which time his Subjects had not beheld him nor his Son *Gelo*, *aut vestis habitu, aut alio ullo insigni differentes.* And it is reckon'd among the Elogies of *Philip* of *Macedon*, that he was not only *moderatus, verum etiam mitis adversus victos.* It is farther said of *Valerius Poblicola*, that when he was advanc'd to the highest degree of *Roman* Honour, he lessen'd his own Authority by degrees, that the Law of the whole City might appear more free. To which we may add the saying of *Theopompus*, a King himself, who being ask'd by his *Intimate*, which was the most severe method for a Prince to preserve his Dignity, made answer, If he made his Friends sharers of his Prerogative and Authority, and took care that no injury were done to his Subjects.

l. 24. c. 4.

Justin. l. 7. c. 6. 16.

Nor can any thing more brightly illustrate the moderation of ancient Legislators, than the Laws themselves which they have left behind, so easie and gentle, so tender of Life and Limb, so indulgent to reputation, so strict in the preservation of Liberty and Propriety, so

equal

equal to the highest, to the lowest, to the most wealthy and the poorest, that if they fail of their aim, the Common good and welfare of All, 'tis when they fall into the hands of bad interpretation, and such as wrest their sincere and just intention. Which creates no little astonishment in the breasts of many judicious men, that the Remedy of their strictness should be so highly advanc'd, which frequently proves worse than the Disease, and proves oft-times more fatal both to Purse and Person, than the most grievous sentence, that lies in their Power to pronounce. The main blot in the fair Scutcheon of our *English* Constitutions. Tho' there may sometimes happen another misfortune to their Noble Characters, when Ecclesiastical jealousie seeks to gall the People with spiritual Impositions, or Temporal for the sake of spiritual Interest's; by which means the Yoke of Christ, by himself asserted to be light and easie, is made like *Rehoboams* little Finger, *thicker* than the *Loyns* of humane Sanction.

Pulton, the Laborious Collector of all the Fundamental Laws and Statutes of the Kingdom, highly extols them beyond the Constitutions of the *Roman* Empe-

Emperours, and of all other Nations. And before him the Great and Learned *Fortescue* was also of the same Judgment, who prefers the Law of *England* far beyond the Civil Edicts. But above all, nothing commends it more than that it preserves the Rights and Liberties of the Subject inviolable; and is of that nature that as the same *Fortescue* affirms, the Prince himself cannot *change* them *without the Consent of his Subjects, nor charge them with strange Impositions against their* wills. For which reason the *People frankly and freely enjoy and occupy their own Goods; being rul'd by such Laws as they desire.* Therefore saith he, rejoyce O Soveraign Prince, *and be glad that the Law of your Realm wherein you shall succeed, is such. For it shall procure to you and your People no small security and comfort. With such Laws should all mankind have bin govern'd if in Paradise they had not transgress'd. With such Laws was the Synagogue rul'd, while it serv'd under God only as King, who adopted the same to him for a peculiar Kingdom.* Concluding with a short *Memorandum* of the wealthy and flourishing Condition of the *Jews* under their good Kings, and the Misery and Captivity that attended wilful and Arbitrary Idolatry.

Deland. Leg. Ang. c. 9.

St.

St. *Austins* Definition of a People may be rightly apply'd to the *English* Nation; *A People*, saith he, *is a multitude of Men associated by the consent of the Law, and Communion of publick Benefit.* Which as it is most certainly true of the *English* Nation, so may it farther be said, that this same Body of Men thus Incorporated within this Island, has from the first beginning had that peculiar Felicity never to have had any other Head but what wore a Royal Diadem. And these Laws which are the Guard and Muniments of the Common Good, may be said to have bin compil'd by a grand *Sanhedrim* of Soveraign Potentates, *West Saxon, Danish, Northumbrian, Mercian, Ina, Ethelwolph, Cedmulph, Alfred, Athelstan, Edwin* and *Canute*, every one throwing the Royal Contributions of his particular Cares and Studies into the publick Treasury of the Common Good; which being the Act and Deed of Soveraignty it self, it cannot be thought that Regal Power was regardless of its just Prerogative, or that *Edward* the Confessor would have bin so chary of them to collect and reduce them into one Body, and leave them as a sacred Relicque to the prejudice of his Successors. And from

De civit. Dei, l. 19

from thence our Fundamental Laws derive their illustrious Descent, and may therefore justly claim the Title of High-born, contriv'd by Soveraign Princes, as well for their own safety as the Peoples security. Which being at length made publick with the unanimous consent and approbation of the Peoples Suffragans; there was nothing binding to the Prince, but what Princes had already condescended to; and nothing impos'd upon the People, but what themselves thought necessary and convenient.

To come to particulars, first in reference to the safety of the Prince; those good and famous Monarchs of our own gave ample testimonies, that they were not ignorant what procures the Honour and Esteem, what the ill will of the Subject. And therefore in the first place, none were more devout according to the knowledge of those times, none greater observers and setters of Religion, and none more bountiful enlargers of the Churches Privileges. And in regard the next Applause belongs to them who best provide for the Civil Government, therefore they took care to make good Laws, that by them they

might

might govern well. For as they have justly merited immortal Honours who have bin the Establishers of Religion and good Government, so none have clouded their Memories with greater infamy, then the Contemners of Religion, the Subverters of establish'd Government, and Oppressors of the People. For it is but the Counterfeit Glitter and Delusion of false Honour, that captivates the Ambitious, and enslaves them to the desire of enslaving others; and mounts their unruly passions rather to an affectation of upbraided Tyranny, then renowned and God-like Kingship. And yet there is that shame of ignominy, and that eager thirst after what is most praise-worthy among Men, that the worst of Tyrants would sooner be accompted *Agesilaus*'s, *Timoleon*'s and *Dio*'s, then *Nabis*'s, *Phalaris*'s and *Dionysius*'s.

Nor shall we find that *Timoleon* and the rest, had less Authority in their several Dominions, then *Phalaris* or *Dionysius*; but this is certain, they liv'd in much more safety and security. If we consider the difference between those *Roman* Emperors, and virtuous Princes that rul'd according to Law, and those that took a contrary course, Story is

full of the never dying *Enconiums* of *Nerva*, *Trajan*, *Adrian*, *Antoninus Pius*, and *Marcus Antoninus*, who needed not the Guard of Prætorian Bands, nor the Defence of armed Legions to secure them, as being sufficiently defended by their own Justice and Moderation, the Affection of the People, and Love of the Senate; whereas all the Power of the *Roman* Empire could not save *Caligula*, *Nero*, *Vitellius*, and those others like themselves from those mortal Enemies which their own depraved Lusts and Tyranny rais'd to their destruction; the most abandon'd of Men at their Falls. Which was the reason, that of twenty six Emperors from *Cæsar* to *Maximus*, sixteen came to untimely and unfortunate Ends. Land-marks sufficiently visible, whereby to discover the happy Road of Honour and Security, from the Sands and Shelves of Reproach and timorous Anxiety. It is a pleasure to dwell in History under the Raigns of those virtuous Emperors, which give us a full view of Princes, safe and secure in the midst of their secure and faithful Subjects; the World flourish'd in Peace and Justice; the Senate enjoy'd their Authority; the Magistrates their due Honours;

nours, the People grew Rich and Wealthy; Virtue and Nobility was exalted; and fear only possess'd the Gates of the Enemy. Reverence, Obedience, and the Peoples Hearts, were the Princes satisfaction; Freedom and Security the People's. On the other side, under the Lawless Raign of Will and Tyranny, behold the World all in dismal Combustion, there War and Bloodshed, here Tumult and Sedition, Cities dis-peopled, Rapes and Adulteries Triumphant, Guards doubl'd, the Prince in perpetual Fears and Jealousies, in continual disquiet and distrust; the People mad and raging, and unruly as the inundations of the unfetter'd Ocean: and in a word, nothing but disorder and confusion, till the gaping Jaws of Ruine swallow All.

And therefore it is recorded of *Numa*, so highly eminent for his Justice and Affection to his People, that during all his Raign, there was neither War nor Sedition, nor so much as the least commotion that tended to a Tumult. Which was the reason of *Plato*'s assertion, That it was impossible to move the Throne of that Prince, in whom a Philosophers mind and Regal Supremacy met together. On the contrary, it is said of *Ti-* *Plut. in vit. Num.*

Tacit. Annal. l. 6. c. 6.

berius, *Non Fortuna, non Solitudines protegebant, quin Tormenta pectoris suaſque ipſe pænas fateretur.* Therefore, ſaith *Cicero*, Fear is an ill preſerver of Diuturnity, but love and reſpect is faithful, and to Perpetuity. And from hence it was, that when the Poets repreſented, in the perſon of *Jove*, a wiſe and virtuous Prince, they brought him in, attended by *Obedience* and *Equity*; but when they make him a Tyrant, they aſſociate with him *Injury* and *Fear*. And *Juvenal*, ſetting forth the unſafe Condition of Arbitrary Pomp, and the perillous Eſtate of Tyranny, goes a great way in two lines,

Sat. 10. 112.

Ad generum Cereris, ſine cæde & vulnere pauci
Deſcendunt Reges *& ſicca morte* Tyranni.

Reges being there taken *abuſive*, in the ſame ſenſe with *Tyranni*.

But the words and ſentence of a King are of greater force. Therefore let us hear the determination of *Ferdinand* of *Arragon*, who marry'd *Iſabella* of *Caſtile*. It was a part of the *Arragonian* Conſtitutions at that time, that if the King went about

Mian. l. 1. c. 4.

about to violate the fundamental Laws of the Kingdom, it might be lawful for the Nobility to create another in his room. This seem'd very severe to the *Castilians*; and therefore they advis'd *Ferdinand* to abolish that Law, as prejudicial to Royal Dignity. But *Ferdinand* reply'd, *That he was bound by the sacred Oath which he had taken, from doing any such thing. Besides, that he was of Opinion, that the safety of a King and Kingdom was secur'd by the equal poise of Power; and that if at any time it happen'd, that the Power of the one out-ballanc'd the other, that without doubt the ruine of the one or the other would ensue.* And it is recorded of *Augustus Cæsar*, That when he listen'd to the Advice of his Wife *Julia*, and govern'd by the Law, that he was from thenceforth free from Conspiracies, and that the People and Senate were always after that faithful and obedient to him. Which was also *Escovedo's* Counsel to *John* of *Austria*, Governour of the *Spanish Netherlands*; telling him withal, that he could never be safe among those, who were not safe from his own Ministers: for that *Security* was to be obtain'd by *mutual Security*.

Dio in vit. August.

Scada l. 9. circa princip.

Fortesc. Cur. de laud. leg. Angl. c. 33.

And indeed the Kingly Office (made and ordain'd for the defence of the Law of the Subjects, their Bodies and Goods, to which end a Prince receives Power of his People, so that he cannot govern his People by any other Law) is of that vast and high importance to the preservation of Mankind, especially consider'd according to those Appellations which are given to virtuous Princes, for the reasons aforesaid, that nothing in the World ought more to oblige the Subject to the perfect awe and reverence of it, as well for their own as the Princes sake. Which awe and reverence, while it continues towards the Dignity, it is impossible but that the Person must be secure and safe in all respects. For while Princes govern by the Fundamental Laws of Justice and Equity, they are not only impal'd with the defence of a Loyal People, but under the promis'd Protection of God himself. Their Justice and Moderation demands both Honour and Veneration; their Vigilancy Obedience and Loyalty. In this respect all Virtuous Princes, that seek the prosperity and felicity of the People under their charges, are call'd by *Homer*, ποιμένες λαῶν, Shepherds of the People.

And

And certainly it would be the highest Iniquity imaginable for the Sheep to rebel or murmur against a Shepherd, that sought nothing more then the common welfare of them all, and never shear'd them, but when the Tribute of their Fleeces was justly due. For which reason *Pindarus* calls the Royal Dignity λαοτρόφον τιμὰν, an Honour given to Princes for nourishing and cherishing the People. He also calls *Apollo* Δάλου θεοδμήτας σκοπὸν, and *Acastus* μαγνήτων σκοπὸν, Inspectors, Overseers, or Guardians of *Delos*, and the *Magnetes*, denoting the cares and continual watchings that attend upon true Kingly Government; which is also the Character given of it by *Homer*,

Olymph. Ode 6.

Nemeor. Ode 5.

Οὐ χρὴ παννύχιον εὕδειν βουληφόρον Ἄνδρα.

And for these reasons is Royal Soveraignty the highest Dignity among mortal men. For the Title of Emperour is only a nominal, no real difference. Wherefore *Pindarus* speaking of *Jamus*, the Ancestor of *Agesias*, that he was as great as Man could be. Some, saith he, are more eminent then others, but he, ἔχατον κομιῶται βασιλεῦσι, had attain'd to the utmost extent of Honour, as being in

the number of *Kings*. It was the publick Benefit which Men receiv'd by the Glorious Actions of the Ancient *Hero's*, that made them ascribe Divine Honours to their deceased persons. And the same Virtues in all just and virtuous Princes produce the same Effects of Veneration and Reverence, Obedience and Loyalty in all good Subjects. A King thus arm'd with his own Virtues, and for their sakes, with the Hearts and Affections of his People, may justly warrant that Axiom of the King of the *Argines* in *Æschylus*,

In Trag. Hiertides.

ἀεὶ δ' ἀνάντων ἐστὶ δοῖκι ἐξαίσιον

The Awe and Terrour of Princes is hardly to be imagin'd.

And yet he was none of those that lawlesly controul'd; for presently after, saith he,

ποίσω τὸ κοινὸν

I will perswade the Common Good.

From all that has bin said, it plainly appears wherein the true and diuturnal security and repose of a Soveraign Prince mainly and principally consist. In which particular, the Laws of *England* cannot be

be said to have bin any way defective; as having extended their power all along to their own satisfaction; rather have they bin so tender of it, that they would not suffer the Pope to make his Ecclesiastical encroachments upon it, even in the most flourishing Estate of Papal Usurpation. Which was never admitted in *England*, but only when the Desertion of his Barons expos'd King *John* to the Exorbitancy of Papal Triumph.

To descend to the cause, and *primum mobile* of the Subjects security, none can be found more apparent then good Laws, including Justice and Freedom; And he that is the Soveraign of a People so govern'd, may be rightly said to be as *Agamemnon* is frequently stil'd by *Homer*, Ἄναξ ἀνδρῶν, the King of Men. Which cannot be thought to be, where Arbitrary Will only controuls a multitude of Slaves.

Therefore, says the famous *Pindar*, Βάθρον πολέων, ἀσφαλὴς δίκα, καὶ ὁμοιοτρόπος εἰράνα.

The foundation of Cities is firm Justice, and Peace accomplish'd with her Virtues, the Dispencers of Riches to Men, the Golden Daughters of considerate *Thenis*. And praising the City of *Opus*, the *Metropolis* of the *Locrians*, *Olymp. Ode* 13.

ἀν

ἀν θεμις, Θυγατηρ τε οἱ σωτειρα λελογχεν μεγαδοδοξος Ἐυνομία. Which *Themis*, and her Sisters good Government, the preserver of Common Weals, took into their protection. And in another place, extolling the City of *Ætna* for its freedom, which is the other main happiness of a Kingdom, τῶ πόλιν κοίναν θεοδμάτω σὺν ἐλευθερίᾳ ὑλλίδος σταθμὸς Ἱερών ἐν νόμοις ἔκτισεν. To whom, meaning his Son, *Hiero* gave that City which he had built, and endow'd with Divine Liberty, according to the Standard of the *Laconic* Laws. Taking an occasion to commend the Constitutions the *Ætnean* Commonweal, from the Excellency of its Government founded in Justice and Liberty, after the example of *Lacedæmon*, then accompted the most exact Form of Dominion in the World; and therefore by the Poet stil'd the Standard of all other Governments.

Certainly the Government of *England* cannot be thought to stand upon a slight Foundation, that has stood so long upon the single Basis of her own Laws. And it is observable, that then *England* first began to flourish, when the Laws, being reduc'd into one Body, were under the execution and care of one Universal Monarch. Nor could the Breach of *Norman*

man Conqueſt hinder the *Chaſm* of long enjoy'd Liberty, from uniting again, and cloſing it ſelf more firmly with the Cement of its former Conſtitutions; calculated by ſo many Kings of this Iſland for the *Meridian* of *Engliſh* Freedom.

To come to particulars; the Statutes are made not only by the Princes pleaſure, but alſo by the Aſſent of the whole Realm; ſo that of neceſſity they muſt procure the Wealth of the People, and in no wiſe tend to their hindrance: and it cannot be thought but that they are repleniſh'd with much prudence and wiſdom, ſeeing that they are ordain'd not by the Providence and Deliberation of one Man alone, but of more then five hundred choſen perſons.

And here now in the diſtribution of Juſtice between Man and Man, the Excellency of the *Engliſh* above the Civil Laws, is manifeſt from hence, that the *Iſſue of the Plea* is not try'd by the Depoſition of two Witneſſes only, according to the proceedings of the Civil Law, but the Truth of the matter muſt appear evident to the Judge, by the Oaths of Twelve men, Neighbours to the place. For that Man may well be thought to be the Maſter of little Cunning or In-

Industry, that cannot find two perso
who either for fear, for love or prof
will not be ready to contradict th
Truth. Nor is it so easie a thing to di
prove the affirmative, or to expose th
wicked Lives and Conversations of pe
sons altogether unknown.

The second Excellency of the *Engli*
Laws derives it self from the Equitab
proceeding, or at least, intention of th
Law in the Election and Swearing o
Jurors. Who when the parties are com
to the Issue of the Plea upon *matter o*
Fact, are by Writ directed to the She
riff of the County, by him to be
chosen, good and lawful Men, Neigh
bours to the place where the Fact is sup
pos'd to be done. Upon their atten
dance, either party may refuse them
upon the reasonable Allegations of Fa
vour or Affection in the Return. Which
Exceptions proving true, the Pannel shall
be quash'd, and another Writ directed
to the Coroner for the Return of a new
Pannel. And if that be found faulty,
the Judges shall appoint two *Clerks* of
the same Court, who upon their Oaths
are bound to make up an indifferent
Pannel, which shall be challeng'd by nei
ther party; yet notwithstanding all this,

either

either of the parties has the liberty to make his particular Exceptions againſt the perſon of any, if they can tax him either of Alliance, Friendſhip, or any other warrantable ſuſpition of prejudice; upon which the name of the perſon ſhall be cancell'd in the Pannel. Moreover, they muſt have Lands or Revenues for term of Life at the leaſt, to the yearly value of Forty ſhillings, leſt for need or poverty ſuch Jurors might be corrupt and ſuborn'd. Being thus admitted and ſworn to *Impartiality*, their determination of the matter is call'd a *Verdict*, or *Verum dictum*, a true Report.

Here it is evident, that the final Cauſe of this Conſtitution, is the determination of Controverſie as much as can be devis'd, to the ſatisfaction as well of the loſer as of the gainer. For in regard every man is apt to believe his own cauſe to be the juſteſt, he can have no reaſon to be diſcontented, when he finds himſelf convinc'd by a fair Tryal, and the *true report* of ſo many good and ſubſtantial Men; of whoſe Probitie he has as it were, the winnowing and ſifting, before he is bound to ſubmit to their Arbitrement. The ſame method, or very

little

little different, is observ'd in Criminal Proceedings. So that no Man can be condemn'd either in Life, Forfeiture, or any other poenal Punishment, unless so many men, whose integrity and probity cannot be impeach'd, be upon their Oaths, and upon mature deliberation fully evinc'd of the Merits of his Crime.

By this means the Lives and Estates of the People of this Nation are in a great measure secur'd. For that no man can be depriv'd of his Possessions, if his Tenure be just. Nor is his Life or Liberty liable to the blasts of Arbitrary breath. So that the Courts of Justice are as it were publick Registers, ready to give an Accompt of all the particular Actions and demeanour of the Law. Insomuch that the Law it self may in a manner be said to be upon its Good Behaviour. And therefore it behoves every Jury-man and every Evidence, to be in the highest degree careful how they mislead the intent of the Law, since he may have need at one time or other, of the same Justice himself. And he is to consider that his own *Verdict* is the fence and pale of all his fellow Subjects Right and Liberty. And that he is guilty of all the mischief which shall ensue, who

opens

opens the leaſt Gap for Injury and Injuſtice to break in upon Right and Freedom; and that thereby he violates the intent of the Law, which is the common good as well of himſelf as of all the reſt. For *Injury* and *Injuſtice* are of the Nature with Quick-ſilver; which upon a ſmooth and poliſh'd Table cannot take the leaſt advantage, but where it finds the moſt diminutive chink, there it harbours and corrodes. Hence we may conclude, that there are not two things more pernicious to the Probity of *Engliſh* Verdicts, then Ignorance and Faction. For the end of Juries being to diſtribute equal Juſtice for the publick ſecurity, Ignorance not knowing when ſhe does well or ill, muſt of neceſſity be guilty of many groſs and foul tranſgreſſions, while not underſtanding their value, ſhe ſports away the Jewels of other Men, as Children play away their Parents *Jacobus*'s. Therefore the Law has with ſolemn prudence provided, that none ſhould be the Judges of Eſtate and Liberty, but ſuch as enjoy both. And therefore if others are put upon that employment, whoſe familiarity with Beggery values not Eſtate, or whoſe abject Spirit matters not Liberty, 'tis the miſ-

miscarriage of *Execution*, not of the Law it self. Which many times may prove dreadful in the conclusion, even to Posterity.

Nor is *Faction* less dangerous, which seldom makes a true construction of the Law, but carries along with it prejudice and an opiniater'd Zeal for byas'd Interest to the Bar. Thus a *Ghibelline* is a fore-judg'd Offender right or wrong, in the breast of a *Guelph*. And a *Guelph* is fore-condemn'd without any farther consideration, by the Verdict of a *Ghibelline*. So that where persons are brought to Trials, where they who try believe themselves cock-sure of a Jury for their Turn, those cannot properly be said to be Trials, but only the Formalities of Trials. And Jurors that go with a premeditated good-will or aversion to such a Trial, may not be said to give a *Verdict*, but to follow the dictates of Passion and Affection, more frequently in the wrong, then in the right; as being carry'd like floating and unfix'd pieces of Timber, which way soever the Stream runs. And therefore what is done by Faction cannot be said to be a Law. For it brings the World into confusion; while one thing shall be accompted lawful

ful to day, and another thing lawful to morrow. But the Law of *England* is certain and unalterable, it had its birth from King and People, and was solely intended for the common good and preservation of Both. So that there needs no picking and culling of Jurors by Interest and Faction, but the return of Men of Understanding, Integrity and Probity, and then they who fall by their Judgments, may be rightly said to fall deservedly.

The Law most certainly aim'd at the right mark; and there is undoubtedly that security of our Lives and Liberties from it, that without it there cannot well be any. And therefore if there be any such who strain it from its natural and genuine Intention. They are in the fault and not the Law; and Heaven will require the oppression and blood of the Innocent at their hands. For the Law it self is absolutely grounded upon the firm Basis of Reason, Nature and Justice, the Common good of Prince and People.

And most assuredly, *Fortescue*, when he was so deeply engag'd with *Prince Edward* in the praise of the Laws of *England*, might have pitch'd upon far

more noble Themes, ſetting this of Juries aſide, then to ſet them at variance with the Civil Laws, only about Baſtardy and Wardſhips. But he aim'd at Brevity, and therefore paſſes over *Magna Charta* in ſilence; wherein, as in a Mirror, all the World may take a lovely Proſpect of the advantages which the Kingdom of *England* has above all other Nations under the Sun. Yet can it not be ſaid to be the Original of the Laws of this Realm, but a Collection of thoſe ancient Conſtitutions of the *Saxons*, *Danes*, *Mercians* and *Northumbrians*, which were by *Matthew Paris* call'd *Bona & adprobatæ antiquæ Regni leges; & leges Edwardi Regis, quæ primò inventæ ſunt, & conſtitutæ in tempore Adgari, ex ſui; & leges æquiſſimi Regis Edwardi.*

These the *Engliſh*, oppreſs'd by *Norman* Tyranny, eagerly thirſted to have reſtor'd, and were impatient, till they were at length in moſt ſolemn manner confirm'd, firſt by King *John*, and afterwards by *Henry* the Third, with the ſevereſt *Anathema* upon the Infringers of it, that State or Religion could deviſe. *Know ye*, ſaith the King, *that We, in the fear of God, for the Salvation of our Soul, the Exaltation of the Church, and the*

the Amendment of the Kingdom. In which words are contain'd the Motives inducing the King to make the *Grant*, and next the Final causes of the *Grant*. The first Inducement is the *Fear of God*. And this those Two Great Monarchs, Favorites of the Almighty, Victorious *David* and Wise *Solomon* both conclude to be the beginning of Wisdom. Which *Wisdom*, as it can consult nothing but what is good and virtuous in General, so when It comes to be chief Privy Counsellour and Minister of State to a Prince in the Establishing a particular National Government, can never be suspected to advise otherwise then for the general Good and Preservation of the People from whom Obedience to that Government is requir'd. 'Twould be impiety to think that the *Beginning of Wisdom* could have any other aim of intention then what is just and profitable. Therefore where a Prince is blest with the fear of God, That Religious Fear instructs him with Heav'nly Wisdom; and that Heavenly Wisdom guides him to make and establish such Laws as may come neareſt to the Laws of God himself, which respected nothing more then the safety, repose, pro-

tection and welfare of his own People. Happy then is the *English* Nation, whose Lives, Estates and Liberties are wrapt and folded up in such a *Charter of Laws*, which had its Confirmation from the fear of God. Certainly their Estates, their Lives and Liberties can no where be more safe then in the fear of God; by nothing more cordially or warily preserv'd, then by the *Beginning of Wisdom*. Which when the late Usurpers violated, they soon found it to be the Beginning of Folly.

The second Inducement was the Good of the Kings Soul. Which he well might hope for from the Promises of the King of Kings Himself. He might well have a fair prospect of Eternal happiness, when he was so largely providing for the Temporal Felicity of his People. It was an Argument of the Queen of *Sheba*, That God delighted in *Solomon*, and that the Lord loved the People of *Israel*, because he had made him King to do Judgment and Justice. This is the Great Charter of Heaven, by which Princes hold their Supream Dignity; the Execution of Judgment and Justice is the high Employment, to which God has appointed Kings. In so doing, they ob-

serve

serve the Statutes and Ordinances of Heaven. The *Rock of Israel* spoke to *David*, saying, *Let him that ruleth over Men be just, ruling in the fear of God.* The recompence of which, is to be rewarded according to their Righteousness. Which is the *Guerdon* that *David* acknowledges to have bin the happy retaliation of his Integrity in observing the Precepts and Statutes of God, by him fram'd for the publick Benefit of his People; and who may be also said to be the Author of all good and wholsome Laws grounded upon Reason and Nature. And therefore the King might well hope for the reward of his Equity and Justice from the God of Both. And the People might well hope for *security temporal* of their Lives and Liberty, from Laws confirm'd for the *Eternal security* of the Confirmer.

And as the Motives and Incentives to pass this Grant were twofold, so were likewise the Final causes of the Grant it self.

First the Exaltation of the Church. Thus *Moses* provided first for his own Worship in general, in the first part of the Decalogue; as he also did in his particular Worship, in the Erection of the

Tabernacle, and the Consecration of the High Priest and subordinate *Levites*. And this order and method the very Heathens were prompted to observe by the very Light of Nature. The first care of *Numa* was to settle the Heathen Worship of the Gods, the next care of *Servius Tullus* was to provide for the good Order of the Politic Government. And *Justin* speaking of *Moses* and a feigned Son of His, whom he calls *Armas*, and the great Benefit which the *Jewish* Commonweal had reap'd from their good Government, *Quorum Justitia*, saith he, *Religione permixta, incredibile quantum coaluere*. Which mixture of Religion with Justice, was by some of the Heathens accompted so absolutely necessary that they would not separate the Priesthood from the Kingly Office, as we may read in *Virgil*;

Rex Anius, Rex idem hominum, Phœbique Sacerdos
Vittis, & sacrâ redimitus tempora Lauro.

Æneid. l. 3.

And it was the Fatherly advice of *Charles* the Fifth to his Son, whereby he might approve himself a worthy Prince, to be constant in the Patronage of Religion

Strada, l. 1.

and

and the protection of the Laws, which he calls the true and certain Eſtabliſhments of all Kingdoms. For the Ship of the Common-weal can never Ride ſafe without the ſacred Anchor of Religion.

For it concerns all Princes that Study the Diuturnity of their Dominions, above all things, to preſerve the Worſhip of God in its intire purity. There being no more dangerous ſymptoms of a periſhing Kingdom, then the neglect and contempt of Religion. This is eaſie to be underſtood, if Men would give themſelves to underſtand the Fundamental ground and reaſon of the Religion where they are born and bred. For that Religion has its Birth from ſome peculiar and awful Original or other. The Religion of the Heathens was grounded upon the Anſwers of the Oracles, and the Obſervations of Diviners and Soothſayers. Believing that thoſe Gods which could foretel good and evil, could alſo bequeath them the ſame Felicities, or vex them with the ſame Misfortunes. But the Foundation and Original of Chriſtian Religion, it is not to be queſtion'd but that we all know, as being eſtabliſh'd in the World by the Eternal

Son of the ever living God. And the ends of it are to procure Salvation in Heaven, and Tranquility, Union and Peace upon Earth. And while the Faith and Integrity of Men makes no other use of it, the Intermixture of it with secular Justice makes that binding Cement, that renders the Bulwark of Government impenetrable to all the assaults of Humane Violence. For by the Exaltation of the Church is not meant the Exaltation of Pomp and Gawdy Ceremony, and the pampering it up in worldly Honour and exorbitant Wealth, quite contrary to the Institutions of the Founder, who laid the Foundations of his Doctrine in Humility and Peace. From whence while Men in Holy Orders deviate, and maintain the forbidden Interest of Worldly Glory, while they seek to support the name and shew of Religion, they Adulterate Justice, and many times become the main disturbers of the publick Peace. Whence *Machiavel* makes this observation, That those People who inhabit nearest to the Church of *Rome*, have the least Religion; and ascribes the Bad Estate of *Italy* to the *Roman* See. And for this, he gives two invincible, as he calls them, Reasons. First, for that

Machiavel. discors. l. 1. c. 12.

by the evil and wicked Examples of that Court, the whole Nation have loſt all their Piety and Devotion. The next Reaſon proceeds from the different Intereſt of Chriſtian Humility, and Antichriſtian Vain-glory. For the *Roman* Court to maintain the Pomp and Splendour of a Temporal Hierarchy, is forc'd to keep not only *Italy*, but all *Europe* in Diviſion, and ſometimes to League even with the Turk for its own preſervation; by which means unhappy *Italy*, being prevented from uniting under their own ſupream Prince, and one frame of Law, is expos'd to all the Pretences of her more powerful Neighbours, and her petty Princes are but the precarious Tenants at Will to more mighty Potentates.

Nor does the Exaltation of the Church encourage the Prieſthood to move irregularly out of their Sphere, or to lead an Amphibious Life, ſometimes in the running Streams of the Goſpel, ſometimes upon the *Terra Firma* of Temporal Government. Nor is it in Scripture a warrantable method of ſeeking Church preferment to oblige the ſecular Intereſt by ſtrain'd and wreſted Interpretations of the Immaculate Scripture.

ture. Like *Shaw* Preaching up the Title of *Richard* the Third, and *Latimer* the right of *Jane Seymour*. For if the Kingdom of their Lord and Master be not of this World, no more does temporal preferment belong to the Ministers of his Doctrine. But the true Exaltation of the Church is to protect it's Ministers in the Preaching of sound Scripture, to the Conversion of Souls, to the building up the new *Jerusalem*, and advancing the future Kingdom of Christ, by their endeavouring to increase the number of his Celestial Subjects. The Exaltation of the Church protects her neat and pure, and exactly cleans'd and swept from all the Cobwebbs of *Babylonish* Superstition. For then will *Rome* despair of ever setting Foot in *England* more, when with grief she beholds all her Follies and inveigling Allurements Root and Branch, extirpated. To which end, the same resolution ought well become the Clergy of *England* in reference to the Relicks of Popish Ceremonies, which was applauded in King *Stephen* in relation to the *Roman* Laws; who hearing that they were brought into *England*, and lodg'd in the custody of *Theobald*, Archbishop of *Canterbury*, commanded

manded them out of his House, publish'd an Edict against the Laws of *Italy*, and banish'd them out of his Realm. Not enduring, tho' a Forraigner himself, any other then the Honesty of the English Constitutions. An Act of his not recorded by any of our Historians, but by the Learned *Selden* in his Notes upon *Fortescue*, cited from *Roger Bacon's Compendium Theologiæ*, and *John* of *Salisbury* in his Treatise *de nugis Curialium*.

On the other side, the Wolf in Sheeps cloathing, outwardly Meek, and insinuating Heresie and Schisme, are equally dangerous and contagious. For Heresie, the Illegitimate Brat of Contumacy, while it labours to shake off from the minds of Men the easie Yoke of Christ, at the same time teaches Men to violate their Allegiance to their lawful Princes: and they that strive to bring in the Innovations of obstinate Opinion, if they get the upper hand, seldom change the Religion alone.

Therefore the Exaltation of the Church defends and guards those Men that give themselves to compose the breaches of Ecclesiastical Differences, and labour to beget a harmony and unity of Faith and Devotion, which then ren-

renders Religion most truly useful, and the most unblemish'd Aid of Civil Justice.

The second final Cause of this Great Charter, was the *Amendment of the Kingdom*. The miscarriages of those times are by our Historians said to be the Cancelling of the Great Charter, by the Advice of *Hubert de Burgh*, Chief Justitiary of *England*, as first confirm'd by the King during his Nonage. The displacing the English Nobility, and admitting *Poictevins* and Forreigners into the Chief employments of the Kingdom; and the Impoverishment of the Nation by vast and continual Taxations. By the means of which undue proceedings the ancient Laws of the Realm were rendred useless, and the Liberty of the People lay at the Mercy of Evil Ministers. The amendment of which Grievances, as being an Act due to the Honour of God, the Salvation of the King's Soul, and the Exaltation of the Church, is now intended by the Confirmation of this Great Charter. From whence it is inductively demonstrable, that if this Establishment of good Laws be the way to procure such inestimable Happiness to a Prince, the continuance of bad

Customs

Customs and Oppression inclines to all the contrary consequences; that is, to be dishonourable to God, hazardous to Salvation, and injurious to the Church. Which considerations of Eternal Detriment or Felicity, when they come to be the inducements to Reformation, must certainly be a great advantage to such Reformation, that it may prove effectual to all its purposes. And then such Act of Reformation is of that high Merit, that it produces a benefit of the good, exceeding the mischief of the Evil; the reason perhaps why *Machiavel* ascribes a more Exalted renown to those Princes who reform the corruptions of a disorder'd State, then to those who only continue the Good Government which they found. *E veramente*, saith he, *un Prencipe cercando la gloria del mondo doverebbe desiderare di possedere una Citta corrotta, non per guastarlo, come Cæsare, ma per riordinarla, come Romulo.* A Prince Ambitious of the Honour of this World would desire to come to a Kingdom under the corruption of ill Customs, not to ruine it like *Cæsar*, but reform it like *Romulus*. For as it is impossible but that Ambition, desire of absolute Dominion, and many other oversights of

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Government, will many times disturb the Courts of Justice, and let in Confusion at the Breaches of the Law, so is that Prince the more highly to be honour'd, who reforms those abuses, and restores exiled Justice, by how much such Reformation must needs be the more welcome and acceptable, even as health is more valued by such as know the Inconveniencies of Sickness, then by those who never understood the want of Cure; and by how much the Joy is greater for the recovery of the lost Sheep, then for those that never went astray.

Now this *Amendment of the Kingdom* imply'd the defect of Government, and such a defect which endanger'd the Estates, Lives and Liberties of the Subject; which since they could be no way secur'd, but by the Recovery of the Ancient Laws of the Kingdom, it follows, that seeing the Rights and Liberties of the English People are still the same, they can be guarded by no better security then what has hitherto preserv'd them, as upon which the Salvation of the Princes Soul, and the Exaltation of the Church depend, and all redounding to the Honour of God.

Neither

Neither could Time it ſelf diſſolve this *Charter*, as being granted to all the Freemen of the Kingdom, to be held and enjoy'd in the Kingdom for ever.

But what thoſe Liberties were, and what the Amendments were, is better ſeen by the Charter it ſelf: in regard that what was good by Amendment, was on the contrary, evil and unjuſt in practice: *No Man may be taken or impriſon'd, or diſſeis'd of his Free Tenement, his Liberties or Free Cuſtoms, or be Outlaw'd or Exil'd, or any way deſtroy'd, nor will we enter upon his Poſſeſſion, nor Commit him* (ſo *Selden* renders the laſt words) *but by the Legal Judgment of his Peers, or Men of his Condition, or by the Law of the Land.* *Nec ſuper eum ibimus, nec ſuper eum mittemus.*

By this Paragraph of the *Charter* it is plainly to be made out, that the Eſtates and Liberties of the Engliſh Subjects are defended and guarded as well by the Law of Nature, as by the Law of the Land: as having embody'd thoſe Principles of Morality, which moſt conduce to Publick Honeſty, which is the Common Security. All which are muſter'd up under that General Head of *Alteri ne feceris quod tibi fieri non vis.* Which being the Law of Nature, is alſo the

Will

Will of God, who is the Author of Nature. So that as God can command nothing but what is purely honeſt and juſt, no more can the Law of Nature. Now that the *Materia prima* of this Law is the ſame with that of the Law of Nature, is apparent from hence, that it enjoyns neceſſary Honeſty, and forbids the Evil contrary to it. To clear the point a little farther, This Paragraph contains nine Branches relating to the Liberty of Perſon, the ſecurity of Property and Poſſeſſion, and the general execution of Juſtice.

1. *No Freeman may be taken or imprison'd*; That is, as the Lord Chief Juſtice *Cooke* expounds it: No Man ſhall be reſtrain'd of his Liberty by Petition or Suggeſtion to the King or his Council, but by Indictment, or Preſentment of good and lawful Men, where ſuch deeds be done. For Liberty is the power of living at pleaſure. And no Man lives as he pleaſes, who is not permitted to enjoy that repoſe and tranquility both of Mind and Body which he propoſes to himſelf. Which Liberty was given him by Nature, and in ſome meaſure granted even to the wild Beaſts themſelves. And therefore to deprive him

him of the Power of himſelf, is to deprive him of the gift of Nature, to which there is nothing that he can have more Right, until he forfeit it back to the Law by tranſgreſſing it. And that it is the gift of Nature, is evident from that Love of Liberty which Nature has infus'd even into all the particular Members of the Creation. The Elements themſelves diſdain the Curb of Servitude. Impriſon'd Fire when it gets looſe revenges it ſelf with greater fury. The fetter'd Ocean foames and roares at his Confinement; The Winds againſt their will detain'd in the Earth's bowels, put the Earth into moſt violent Convulſions. We ſee how impatiently young Horſes brook their Imperious Curbs; and how the little Birds at firſt bewail the Captivity of the Cage. Liberty is one of the chiefeſt Felicities Man has to boaſt of that he is by Nature Lord of himſelf, and has only Reaſon to be his Governour. Nor does the Law require ſlaviſh Subjection from him, but natural and neceſſary Obedience; which is therefore ſo far from being oppreſſive, that it becomes de-

lightful to him, becauſe he finds thereby his Liberty preſerv'd. For theſe reaſons every Man that enjoys his Liberty is ſaid to be the treaſurer of a moſt ineſtimable Jewel, the Priviledge of Nature and his Birthright, which they who raviſh from him by violence and againſt the Law of Nature, deſpoil him of the Benefit of Heaven, and reduce him to the ſlaviſh condition of Beaſts, as if he were only made for the uſe of Tyrannizing Power.

Therefore ſays this Law, let No man be reſtrain'd of his Liberty or impriſon'd but by the Law. I omit the fatal Conſequences of endangering the Liberty of a People enur'd to Priviledge and Freedom, the love of which to them is ſo exceſſive, that accounting nothing dearer to them in this World, they proſtrate Life, Eſtate, and all at the feet of its Preſervation. On the other ſide, Popular Licence is with all the ſeverity imaginable to be reſtrain'd; for that unhinges publick Safety, and makes an Inundation upon the true Juſtice of Government. Then which nothing can be more pernicious to the Publick Security, and

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the Common Good of Prince and People.

2. *Let no man be diſſeis'd or diſpoſſeſs'd of his Freehold*, that is, of his Lands, Livelyhood, Liberties, or free Cuſtoms as belong to him by his free Birth-right.

And this alſo depends upon the Law of Nature. For no ſooner was the World Created, but immediately appear'd Propriety. *Abel* was a Keeper of Sheep, and *Cain* a Tiller of the Ground. And therefore was Man endu'd by Nature with Induſtry, to advance his Eſtate, to the end he might not only live, but live comfortably upon what by his Labour he enjoy'd. Which being obtain'd by his own induſtry and pains, Nature inſtill'd that Moral Principle among Men, that it was but juſt that every man ſhould quietly and peaceably enjoy what he had got by his Labour and the ſweat of his Brows. And this is evident from the Law of Inheritance, the Inſtitution of God himſelf. For if by the Law of Nature he had not power to poſſeſs and keep, he could not have power to diſpoſe. But the undenia-

ble Power of disposition confirms the right of Property and Possession. So that for a Man to be despoyl'd of the fruits of his Labour, or of the Inheritance of his Ancestors, is against the Law of God and Nature. *Thou shalt eat of the Labour of thy hand; happy shalt thou be, and it shall be well with thee*; and He that gathereth by Labour shall encrease. This was the Establishment of Property by two of the best of Kings, by the dictate of God himself. And therefore for Tyranny to waste the Labours of the Subject profusely upon illegal Innovations, and unnecessary Pomp and Riot, is a piece of Injustice of the highest Nature. And therefore this Law grounded upon the Law of God and Nature, takes especial care to secure the Property of the Subject from Exorbitancy and Oppression.

Not that hereby the Laws of legal Tributes are any way contradicted. For they are impos'd upon the People, and given to the Prince as a publick Person for the Common Good; of which the support of his Dignity is a part. And generally in *England* they

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are given with the Subjects consent. And this is also warranted by Scripture. *For this reason you pay Tribute also; for they are Gods Ministers.* Nor can the People expect to be safe in what they possess, unless the Prince be sufficiently supply'd for their defence. And yet the Law has so provided too, that they cannot be put upon the expence of chargeable and unnecessary Wars; for tho it be in the power of the Prince to make and proclaim the War, yet the Sinews of it are in the Peoples keeping. However, for the People to deny their Prince his just and legal Tributes is altogether as unnatural, as it may be thought unkind in him to deprive them of their Goods and Fortunes, without a lawful cause against their good-liking.

The third and fourth Branches are made to interpose in bar of unjust Exilements and Outlaries. Of which the one is the Occasion that a Man is said *Perdere Patriam*, to lose his Country; and the other to be depriv'd of the benefit of his Native Laws. Two heavy Burthens, and two unmerciful Injuries for a Free-born Man

to take at the hands of Violence without a Legal Provocation. They are a sort of Civil Excommunications, which cut a Man off from the society and commerce with his dearest Friends and Country-men, and the benefit of the Law; and leave him as it were forsaken both of God and Man. Banishment was look't upon in former times, as an affliction so heavy and so insupportable, that it was thought a Punishment sufficient for Treason in the Raign of *Henry* the First. Even in the time of *Richard* the Second, the offences of great Personages were punish'd by Banishment. In short, they are both when undeserved, Breaches of Mans Liberty, and consequently contrary to the Law of Nature, which gives to every Man the right of a *Civis Natu* in the Country where he was born. For it is not to be question'd, but the *Land which the Lord thy God has given thee*, was spoke to every individual Native of the Country, and not to particular persons. And therefore it is not a thing of that slight Importance, to hurry the Free-born Citizens of a Commonweal, out of the

Land

Land of their Nativity, or to put them upon the neceſſities of voluntary Exile, upon the Score of Conſcience and Eccleſiaſtical Intereſt. For all true Eccleſiaſtical Intereſt is the Intereſt of Chriſt, and as ſuch the Intereſt of Chriſtian Religion as to this World, is grounded upon the Law of Nature; one of whoſe chief Maximes therefore is, *Do as you would be done by.* For which reaſon that Law which forces the free-born Subject of a Nation into Exile, and all Men are conſtrain'd that go to avoid ſome inconvenience or violence prejudicial to their preſent Peace, is contrary not only to this Statute, which ſays, that no Man ſhall be exil'd but by the Legal judgment of his Peers, but alſo to the Laws of Chriſtian Liberty, which admits of no Corporeal puniſhment upon the ſcore of Religion, much leſs of Exilement, which is a forfeiture of the higheſt degree. Eccleſiaſtical Intereſt, which is far the more ſublime and more noble Power, may exterminate from Heaven, but not from Earth; For it is the ſame thing whether Intereſt adviſe or act. Ac-

cording to that of the Learned *Bishop Taylor*, *Many*, saith he, *have got a trick of giving People over to the Secular Power, which at the best is no better then Hypocrisie, removing Envy from themselves, and laying it upon others; a Refusing to do that in external Act, which they do in Counsel and approbation; which is a transmitting the Act to another, and retaining a proportion of the Guilt to themselves, even their own and the others too.*

Liberty of Prophecying, p. 229

And therefore this Law, having a greater regard to the Publick good and the Defence of the Prince, enervated by the dispeopling and emptying of his Country of its chiefest Sinews and Strength which consists in the Number of Inhabitants, (and which he that travels the Popes Territories may easily observe not to be the Interest of *Rome*) has here taken care that no Man should be exil'd before legal judgment of his Peers. Not but they who deserve Banishment ought to be punish'd according to their deserts; but then they must be first convicted according to the Law of the Land. Otherwise it is not only

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contrary to the Law but the Customs of the Realm, by which no Man can be banish'd out of his Native Country, but either by Authority of Parliament, or in case of *Abjuration* for Felony by the Common Law.

Therefore the secular Law, (never so certain in its course, as when it steers without the helm of Ecclesiastical Ambition) is so tender of Exilement, that it will not permit even the Prince himself to send any Subject of *England* to serve him against his will: nay, if you believe the Lord *Cooke*, a Man cannot by constraint be commanded out of *England* into *Ireland*, tho' for his Honour to be Deputy of the Kingdom. Which shews how nice the Laws of *England* were to tread the footsteps of Nature and Reason in this particular.

5. *No Man shall be destroy'd*, that is, by the interpretation of the *Lord Cook*, No Man shall be forejudg'd of Life or Limb, dis-inherited, or put to torture or Death.

And thus all oppression against Law, by colour of any usurp'd Authority, or under the pretence of Justice, is a

kind

kind of destruction. Which is neither to be done *aliquo modo*, by any way, means, pretence or shadow whatsoever.

Of this sort of Destruction the Psalmist complains when he cries out, *All the Foundations of the Earth are out of course.* The public good and safety was turn'd into public Violence and Oppression, while Lawless Power and Arbitrary Dominion made Havock of the Lives and Liberties of the succourless People. Then which a greater Calamity cannot befall Mankind. For what more irreparable injury can be done to a Man then to deprive him of his life, or maim him in his limbs; thereby to demolish not only his well-Being, but his very Being it self, upon every Cholerick Incentive of Lust, Ambition, Superstition, Revenge, and many times of Interest and Politic Conveniency? This prudent Nature foresaw, and engrav'd in the heart of every Man a desire of association for mutual defence against the Rage of licentious Will and Pleasure. Nature approv'd their design, aided them with her own Light, and dictated to them

Her

Her self those Principles and Precepts of Honesty, Justice, and Moderation, which Heaven had infus'd into Her, that they might reduce them into Laws, to prevent the Havocks of unlimited Controul, which wherever it sets footing, reduceth All to Beggery, Slavery and Destruction. Which while it is the chief endeavour of Nature, aiming at nothing more then preservation, to keep fast bound in the Chains and Fetters of her own Law, warrants the same method in Constitutions of Human Frame. And certainly if they are to be thought the only *Fælices Agricolæ*, that live under the Protection of good Laws, the English may be said rightly to be They, who have the Laws of God and Nature spreading their Cherubim-Wings over the Lives and Liberties of every particular person in the Nation.

The next and sixth Branch, *Neither will we enter upon his Possession, nor commit him*, may seem to be a particular Promise of moderate Indulgence to the Subject in reference to the peculiar claims and Suits of the King relating to the Crown, yet still springing

from the same Original. Which shews the Kings of *England* truly fit to rule, while they themselves submit to the Laws by which they govern. As it was said of *Lycurgus*, *Quod nihil legum alia in alios Sanxit, cujus non ipse primus in se Documenta daret.*

The three next Branches relate to the great prejudices and damages which are sustain'd by the ill management and Execution of Justice through the Corruption of its Ministers; against which the Law provides in these words:

We shall sell to no Man Justice or Right.

We shall deny to no Man Justice or Right.

We shall delay to no Man Justice or Right.

The selling of Justice or taking Bribes, and the denial and delay of Justice as they are equally dishonourable to God, so are they to them that require Justice equally injurious. For it is the highest presumption that Man can be guilty of to expose to sale one

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of the chiefeſt Attributes of the Almighty. There is nothing whereby God more exalts himſelf to Mankind, then in the frequent Repetitions of his Juſtice. Of which he that makes Merchandize, proſtitutes the Honour of his Maker for filthy lucre: and yet neither is it his own to ſell; for God is the Fountain of Juſtice; from him it all flows, and his it is. Only he entruſts it with the Miniſters of Juſtice for the good of Mankind. He that does Juſtice uprightly, acts like God; but he that ſells it, ſells the Act of God and not his own; for tho it prove Juſtice in the purchaſer, yet it is not Juſtice in the ſeller, but the Price of the Buyer, which if the *poor* and needy want, they muſt not have, becauſe they have not wherewithal to bid for it, who are nevertheleſs under the Protection of Juſtice equally with the moſt Opulent. However God out of his boundleſs Providence foreſaw how great would be the Temptations of Avarice, and the allurements of Gold, tho currant no where but upon Earth, that he provides againſt the charming Iniquity by a ſtrict command,

mand, *Thou shalt not respect persons, nor take a Gift, for a gift blinds the eyes of the wise.* So that the high Crimes alledg'd against the Sons of *Samuel* were, that they *turn'd after Lucre, and took Bribes.* From whence the Light of Nature infus'd the same detestation of these Misdemeanors in all other Ministers of Justice. By *Hesiod* they are call'd Ἄνδρες Δωροφάγοι, or Gift-eaters, whom he makes Justice to follow weeping, and bewailing the fatal Consequences of her bad usage. *Phocyllides* also, from the same Law of Nature could give this advice,

——— μηδὲ κρίνον ἐς χάριν ἕλκειν.

Let not favour byass Justice; for if thou dost saith he, —— σὺ θεὸς ἐκτέπεσεν δικάσσει. God will afterwards judge thee. And another of the *Gnomonicks*, wouldst thou support thy life, ἐκ δικαίων, by doing justly? then φεῦγε κέρδος κακὸν, fly ill got gain. We read in *Herodotus* of *Sesamnes* one of the *Persian* Judges, put to death for Bribery by *Cambyses*, who caus'd him to be flea'd after he was dead, and his

Tann'd

Tann'd Skin to be cut into Thongs to make a Seat for his Son.

Among the *Roman's* by the *Junian Law* Bribery or selling of Justice was punish'd with Exile; and by the *Acilian Law*, they were immediately to receive Judgment, without any demurs. It may be thought that selling of places relating to Courts of Judicature was not a custom then in practice, else we might conclude that they who made such ample provision against the selling of Justice, would have as carefully provided against the selling of those Inferiour Authorities that refer to the Execution of it. Especially when the Rates run so High as now they do. Twelve hunder'd, Two Thousand pound for a Jaylours place, Four hunder'd for a Serjeants, and so proportionably for others. For it serves for a specious Plea to those that shall be call'd to accompt for their miscarriages, that they have bought so dear. Nor does the Name of a *Favourite in Court* sound well, for though it may not be so effectual as some may think, yet is the thing it self suspicious to all, especially when they see the For-

Fortunes and Emoluments of that person advanc'd above others of equal merit.

But after pardon for this short digression, the two next Grievances by this Charter promis'd to be reform'd are the delay and denial of Justice; both much of the same Nature, seeing that the *Delay* is in some measure the denial of Justice. Which words, *delay of Justice*, are so expounded by several Acts of Parliament, that by no means Common Right or Common Law should be disturb'd or delay'd, tho' it be commanded under the Great or Privy Seal, or by any Order, Writ, Letters or Command whatsoever, even from the Prince himself, or any other; but that the Justices shall proceed, as if no such Writs, Letters, Messages or Commandment were come to them. And therefore the Epithite of *Celeris* is giv'n to the Law; in regard there is nothing which can be more welcom to those who are aggriev'd or distressed then quick and speedy Relief. And this is without doubt the meaning of those positive Commands in Scripture to which the

Judges

Judges of the Earth, to hear the cries of the Poor and Needy; who if not soon redrest, are doubly undone by unnecessary Expence, and with-holding from them the profit of their legal and just claims. But as the Delay is bad, so is the positive denial so much the more to be avoided, by how much the Lamentations and Cries of the injur'd make a louder sound in the Ears of Heaven, and open with greater swiftness and more rapid violence the Flood-gates of Divine Vengeance upon a Nation. For if the cause of the oppressed be the cause of God, then the denial of Justice is the denial of the Almighties own Suit, with whom this great Charter would not contend. And therefore the Prince, here minding his future Salvation, freely discards the *selling*, *delay* and *denial* of Justice, knowing how little they would avail, when unrelievd Oppression should plead against him at the Bar of Heaven. If then the Law of *England* be the surest Sanctuary which an English Man can take, and the strongest Fortress to protect the weakest of All, it must be assuredly much more sacred

and beneficial, when built up of the Materials of Gods Commands and Natures Light. Nor can they who at any time shall seek to destroy so beautiful a Structure, expect other then to perish in its Ruines.

But here may some advance a *Quere*, and ask, what is meant by this *Per legem terræ*, this *Law of the Land?* A Scrutiny with the same facility as made plainly resolv'd by the Statute of the 25 *Ed.* 3. *c.* 4. where *per legem terræ* is expounded to be by due Process of the Law. For thus the words run: *Whereas it is contained in the Great Charter, &c. that no Man shall be imprison'd, &c. It is accorded, assented and stablish'd, That no Man shall be taken by Petition or Suggestion to our Lord the King, or his Council, unless it be by Indictment or Presentment of his good and lawful People of the same Neighbourhood where such Deeds be done, in due manner, or by Process made by Writ Original at the Common Law. Nor that none be outed of his Franchise or his Freehold, unless he be duly brought in answer, and forejudg'd of the same by the Course of the Law. And if any thing*

be

be done againſt the ſame, it ſhall be redreſs'd and holden for none. Upon which words the Lord *Cook* obſerves, that Proceſs of Law is twofold, By the Kings Writ, or by due proceeding and Warrant, either in Deed, or in Law without Writ. Which latter way of Proceeding is againſt Criminals, where there is good Witneſs againſt the Offender. And Evidence muſt proceed from perſons of good Fame, Credit and Honeſty, not from debauch'd, malevolent and ſcandalous Informers. And therefore the Law requires, that they who grant any ſuch Warrant have lawful Authority; that the Warrant be lawful, and under Hand and Seal; that the Cauſe be ſpecify'd in the Warrant; and laſtly, that the intent of the Warrant be Legal, for the ſafe Cuſtody of the Party till he be deliver'd by due courſe of Law. Which is plain from the Stile of our *Habeas Corpus's, Ut Juſticiarii noſtri viſa cauſa, fieri faciant quod de Jure & ſecundum Legem & Conſuetudinem Regni Noſtri Angliæ foret faciendum.*

In farther proof of which Expoſition, we find it Enacted in the 27 of *Ed.* 3. *c.* 3. *That no Man of what Eſtate or Condition that he be, ſhall be put out of Land or Tenement, nor taken nor impriſon'd, nor diſherited, nor put to death without being brought to anſwer by due Proceſs of the Law.* Which laſt words expounding and fully anſwering the doubt upon *per Legem terræ*, plainly evince the Law of the Land to be ſuch, that no Man ought to receive detriment either in Perſon or Eſtate before legal Trial and due proof of the Offence.

True it is, that the Lord *Cook* brings an Inſtance of an Act of Parliament made in the face of this Fundamental Law of *Magna Charta* in the 11th year of *Hen.* 7. That as well Juſtices of Aſſize, as Juſtices of the Peace (without any finding or Preſentment of Twelve Men) upon a bare Information for the King before them made, ſhould have full Power and Authority by their diſcretions to hear and determine all Offences and Contempts committed or done againſt the form of any Statute in force and

not

not repeal'd. But the Fence of Common Justice being thus broken, what ensu'd? By this Act, shaking the Fundamental Law of *Magna Charta*, it is not credible, saith He, what Oppressions and Extortions to the Ruine of infinite numbers of People were committed by *Empson* and *Dudley*.

Therefore in th first year of *Hen.*8. that Act was repeal'd and made void; and the reason is given, For that by force of the said Act, many sinister, crafty, feigned and forg'd Informations had bin pursu'd against divers of of the Kings Subjects, to their great Damage and wrongful vexation. So that even Acts of Parliament themselves, if they entrench upon the Subjects Liberty grounded upon the sacred meaning and intent of this Fundamental Law of *Magna Charta*, are as liable to be put to death, as any that offend against the justest Ordinances of the Realm. Neither was this a thing that scap'd the consideration of former Princes. And therefore to prevent so foul a miscarriage by the best means that could be, It was Enacted at *Westminster* in the Third year of *Ed.* 1.

That, *because all Elections ought to be free, no Man should under grievous forfeiture by force, malice or menaces, disturb any to make free Election.* It being the ancient maxime of the Law, *Fiant Electiones Rite, & libere sine aliqua interruptione*, Let all Elections be due and Free.

By the 1 *Hen.* 5. 1. it is ordained and Established, *That the Citizens and Burgesses of the Cities and Boroughs be chosen of Men, Citizens and Burgesses Resiant and dwelling, and free in the same Cities and Boroughs, and no otherwise.*

The like provision is also made by the 23 of *Hen.* 6. *c* 15. Nor was there less care taken to commit the charge of Elections to Men of Substance and Estate; besides that all Sheriffs and Mayors, and others concern'd are lyable to great Fines and Actions of the parties injur'd for undue Returns.

For it might be well thought, that Persons of Credit and Reputation in the places of their Birth, or long habitation, and where their Fortunes lye, will be more tender of the Common Good and welfare of their Friends,

Friends, Relations, and Neighbours with whom they have daily Converſe, then Strangers creeping in at the back dores of vaſt Expence and Purchaſe to gratifie their own Ambition. Which ſort of *Ambitus* by the *Calpurnian* Law among the *Romans* was puniſh'd by heavy Fine on the *Canvaſſer*; beſide that, he was afterwards render'd uncapable of being Elected into a Senators place. And the ſame Law was alſo after that ratify'd by the Senate in the Conſulſhip of *Tullius* and *Antonius*. And by the *Tullian* Law the Commonalty themſelves offending in that point were alſo moſt ſeverely puniſh'd, beſide that the Canvaſſers were to ſuffer ten years Exilement. And thus we may ſee how vigilant even our Princes themſelves have bin to ſet ſtrong Watch and Ward about the Election of our Law-makers and Preſervers. But if needy Corporations will ſell their Rights, and ſurrender the Fortreſs of wholſome Statutes to *Philip* of *Macedon's* laden Mules, they muſt not blame the ſteady Ordinances of the Realm, and the juſt Proviſions of their moſt Noble Princes, but

their own *Edomite* Hunger after the Amiable Pottage.

There is a second Question which may be propounded by some, Where the Remedy lies if a Man be wrong'd or injur'd contrary to the Law of the Land? To which the *Lord Cook* himself replies, That every Act of Parliament made against any Injury, Mischief or Grievance, either expresly or impliedly, give a remedy to the party wrong'd; which also is done by many Chapters of the Great Charter; and therefore he may have an Action grounded upon the Charter it self. And that moreover it is provided by the *36 Ed. 3.* That if any Man feeleth himself griev'd contrary to any Article in any Statute, he shall have his present Redress in Chancery, that is, by Original Writ, by force of the said Articles and Statutes.

That Nation would enjoy a most perfect Happiness indeed that were not sometimes liable to the incroaching Distempers and Corruptions of a sickly Government. The most healthy person in the World may sometimes need a little Physic; and the most tem-

temperate and ſane may ſometimes diſorder the frame of their Health by their own Exceſſes. But it is rarely known that ſuch accidental Commotions of the blood prove mortal; as meeting with thoſe timely Applications which ſoon reſtore and ſettle all again. Thus the Epidemic Fever of *Dudley* and *Empſons* Proſecutions infected for a while the Veins of the whole Nation, but the Healthy Conſtitution of the Kingdom ſoon threw it off, and it was cur'd with a little Blood-letting.

The Proceedings, Cenſures and Decrees of the Star-Chamber, were for ſome time in the very words of the Act, an *Intolerable Burthen to the Subject*, and look'd upon as *a means to introduce Arbitrary Power and Government*. Even the Privy Council it ſelf was tax'd, with *determining of the Eſtates and Liberties of the Subject contrary to the Law of the Land*. Therefore was the Power of the Star-Chamber by that Act abſolutely and clearly diſolv'd, taken away and determin'd. And that not only for the general reaſons already recited, but upon the rehearſal of the Grand Charter, and

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the ſeveral Confirmations of it from time to time; Firſt, becauſe the Judges of that Court, *had undertaken to puniſh where the Law did not warrant, to make Decrees for things having no ſuch Authority, and to inflict heavier puniſhments then by Law were warrantable*; and ſecondly, for that all *matters examinable and determinable before the ſaid Judges might have their proper remedy and redreſs; and their due puniſhment and correction by the Common Law of the Land, and in the ordinary Courſe of Juſtice elſewhere.* And with this ſame Court fell alſo ſeveral other Juriſdictions of the ſame Nature.

Then for the Regulation of the Council, it was enacted, that neither the Prince or his Council *had or ought to have any Juriſdiction, Power or Authority by Engliſh Bill, Petition, Articles, Libell, or by any other Arbitrary way whatever, to examine or draw into queſtion, determine or diſpoſe of the Lands, Tenements, Hereditaments, Goods or Chattels of any of the Subjects of this Kingdom, but that the ſame ought to be try'd and determin'd in the ordinary Courts of Juſtice, and by the ordinary Courſe of the Law.* And

And thus the Grievances of a well conſtituted Nation at one time or other have ſtill their mortal Periods, and are forc'd to flie from the ſtern and awful Countenance of Fundamental Law. For Law has Heav'n on her ſide, which Injuſtice and Oppreſſion cannot pretend to. For where Laws are grounded upon the firm Baſis of Divine Reaſon, the violation of Humane Conſtitution, is the violation of Heavenly Juſtice. Againſt which for Cruelty and Oppreſſion to make a kind of a Titanic War, proves as fatal in the end as the Inſurrection of thoſe Gyants againſt Heav'n it ſelf. *Leges dormiunt, non moriuntur.* The Laws may ſleep but never dye. The locks of the Law may be cut off, but they will grow again; and then ſhe rouzes up her ſelf more vigorouſly and with new recover'd ſtrength, ſhaking off the feeble bands of Violence, nere ceaſes till ſhe has brought Illegal Force and Arbitrary proſecution upon their Knees.

Nor fares it better with thoſe who to enrich and raiſe their own Families adviſe the infringement of Fundamental

nal Law and moderate Rule. Who for the sake of Temporary Splendour and Command, care not tho they drive the Chariot Wheels of their Ambition over the Necks of undone Millions. And thus we may behold in History, even where Tyranny it self controuls, an *Ibrahim Bassa* with all his tickling flattery dragg'd to the block to attone the oppression of the Incens'd Multitude with the loss of his Criminal Head. Our own story brings us forth the Great *Justiciary* of *England*, *Hubert de Burgo*, once a Patriot and lover of his Country, but at length beguil'd by the Advantages of Honour and Preferment, for Carelling the humour of a young Prince, and instructing him which way to avoid this very Charter granted by his Father, and by himself in his Nonage confirm'd, (for which he was advanc'd to the highest Dignity in the Kingdom, and made Earl of *Kent*,) not only degraded of his Honour, not only stripp'd of all his Wealth which he had so unduly obtain'd, but which wat more, he saw himself a forlorn sufferer under the heavy Indignation

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of that Prince to whom he had so officiously devoted his Illegal Industry. We may also in the progress of the same Story read the Tragical Exits of the Potent and Opulent *Spencers*, Father and Son, for giving rash and evil Counsel to their Soveraign against the Form of the Grand Charter. So hard a matter it is for the most powerful and politic Champions of Illegality and Oppression to wrastle with the Fundamental Law of this Nation without a dismal fall. According to that of *Pindar*, for this is not novel but ancient Experience. —— τὸ δὲ παρ δίκαν γλυκὺ πικροτάτα μόνοι τελευτά. Most bitter is the end which attends the sweets of Injustice. And therefore *Thuanus* reflecting upon the Calamity of *Ibrahim Bassa* before-mention'd, *A most remarkable example*, saith he, *to those, who for the sake of one person, whose favour they have won by most unseemly and pernicious Devotion, trample under Foot the general Hatred of all others; whereas they ought rather to imitate those persons, who being advanc'd to highest preferments, so behav'd themselves in the discharge of their Trusts, that they may be*

Isthm. Ode 7.

Thuan. l. 95.

be always ready to part with their preferments, and not be afraid to retire to a private life, if it be their Fortune to be remov'd. Otherwise it many times falls out that they are left to the free revenge of all whom they have offended, or else with the great regret of the Prince himself are hurry'd away to open punishment for the satisfaction of Popular indignation.

Even Princes themselves have labour'd under the evil consequences that have attended the Injuries which they have done to the fundamental Constitutions of their own Realms; which has only serv'd to render their Lives and all their Glory troublesome, vexacious, and full of perplexity; and to deprive them of that quiet and tranquility which makes the Enjoyment of Life sweet.

Lewis the XI, as *Comines* his own Servant records, was the first, to use his own words, who at his own pleasure levy'd mony upon the People without their consent. And to gain the consent of the Nobility so to do, within their own Jurisdictions, promis'd them Annual Pensions. Certainly

faith

ſaith the Hiſtorian, he gave ſo great a wound to *France*, that it will not eaſily be cur'd. For none of the former Kings ſo afflicted *France* as he did, but more eſpecially by ſubverting the Authority of their Parliaments. And is therefore ſaid to have bin the firſt of the *French* Monarchs that freed his Succeſſors *hors de Page*, out of Guardianſhip.

Of this Prince, *Mezeray* gives this accompt. The Conduct which *Lewis* while he was yet but *Dolphin*, obſerv'd in all his Actions, particularly toward his own Father, and Subjects of the *Dauphinate*, ſufficiently demonſtrated what his Friends and Subjects were to hope from him. He govern'd always without Counſel, moſt commonly without Juſtice, without reaſon. He thought it the height of Policy to forſake the Road of all his Predeceſſors, and to leave nothing unaſſay'd, whether good or evil to make himſelf redoubted. His piercing but too fine and crafty Wit, was the greateſt Enemy of his own and the repoſe of *France*. He choſe rather to follow his own irregular Fancies, then the

La vie de Louis XI.

the prudent Laws of the Realm. And he caus'd his Grandeur to consist in the Oppression of his People, the undoing and debasing his Nobility, and the advancement of the meanest and most indigent. But when he grew near his end, then the considerations of what he had done, tormented him in so cruel a manner, that he was afraid of every one that came near him, grew jealous of his own Son and Daughter; and he that had invented Prisons and Fetters for others, was now his own Prisoner in his Castle of *Plessis*, fortify'd with a grate of Iron-Bars; and planted with Watch-houses of Iron for his Guards. So that it was impossible to hold a King in a straighter Prison then he held himself; where he liv'd unseen of any, because he would let none come at him. His Physitian, who had sworn to him he should not live eight days, if he turn'd him away as he did his other Servants, he so dreaded, that he flatter'd him to obtain his Favour. And to prolong his Life which he was so afraid to lose, he superstitiously sent for a Hermit from the farthest Corner

Comines.

Corner of *Italy*, expecting great matters from his prayers. In short, says *Comines*, From his Childhood to his Death he was in continual noise and trouble, so that were his joyful days to be number'd, they would be found but very few. But when there was no hopes of life, he sent for his Son, and gave him other advice then he had follow'd himself, to rule according to the Law, to ease his People, and reduce the Taxes to their former Establishment.

So that the Law is as much the security and safety of the Prince as of the People; and the Observation of the Law is so far from being a servitude, that it is a Royal Vertue. For this is that, which as it secures his outward felicity, secures the Inward tranquility of his mind, and raises him a Monument of lasting Fame and Veneration after death in the hearts of his Subjects from Generation to Generation.

And thus *Lewis* the XII. sirnam'd the *Just*, so dear to his People while He liv'd, became so much the Darling of Posterity, and his memory conti-

nu'd so sacred and so much reverenc'd even in the time of *Thuanus*, that when any debate arose either in Council, Parliaments, or Courts of Judicature, about the Miscarriages of the Government, always the Raign of *Lewis* the XII. was propos'd as the Pattern and Standard of the Reformation intended.

Thus the Law of *England* is the Security of the Prince and People. The security of the Prince as being the security of his Prerogative, which is a part of the Law, and comprehended in it. And so the security of the Prerogative becomes in course the security of the Peoples Liberty, being both determin'd by the Law and Customs of the Land; there being no other Prerogative, nor any other Liberty of the Subject then what they allow.

So that there is nothing can injure the Law of *England* but wresting and misinterpretation, nor can it well be wrested neither, unless it be screw'd from the intent of Reason and Honesty. Neither is it possible for any man to mis-interpret it, without the Shipwrack of his Conscience upon the

Rocks

Rocks of specious pretence. For misinterpretation misguides the Law to Evil; which no man can think to be a vertuous Act, whatever may be his aim in doing of it. The Law of *England* imposes nothing but what is grounded upon the Maximes of what is just and honest in it self, and is currant to all, as bearing the Stamp of Right Reason and Divine Truth; which They who misinterpret, counterfeit the Impression, and utter the base Coyn of Falshood and Dissembl'd Pretence for Real Verity.

But when Dominion and Authority believing it self too rudely curb'd, or Popular Liberty deeming it self too severely checkt, seek to transcend the Limits of the Law; then Interest and Faction create Sidings and Parties, and invent wicked Names of Distinction; and the whole Frame of Law is put into Disorder. Nor does either party want Incendiaries, who for their private Emoluments and Advantages kindle those Fires on Earth that shall torment 'em hereafter. Whereas the strict observance of Command according to the Law, and the due performance of

Homage and Obedience according to the Injunctions of the ſame Law would keep all things right, and nothing could ſhake the Prerogative and Safety of the Prince, or the Liberty and Security of the Subject.

The greateſt Happineſſes that God beſtows upon Mankind have all their Limits ſet. The Sun is ty'd to his Diurnal and Annual Motions; The Stars are fix'd within their proper Spheres, and cannot ſtir beyond the Law of Nature. The Seaſons have their limits; the Sea and Land have both their bounds. Nay Vertue her ſelf, if ſhe runs into Exceſs, mounts or deſcends to ſome particular Vice. And therefore good Government cannot take it ill, if it be impal'd within the Laws of Order and Moderation. Eſpecially ſeeing that Juſtice it ſelf whoſe Miniſter it is, is reſtrain'd and limited in her Power.

The ſame conſiderations faſten the Ligaments of Obedience. For the whole World is but one entire piece of Obedience to its Soveraign, of which that only unruly part is Man himſelf. We are bound to obey our law-

lawful Supream not only as Subjects, for the outward benefits of Peace and Protection, but as Christians, for the inward satisfaction of Conscience, as being a part of our Christian Duty. Neither is it less folly then Impiety to be disobedient to those that govern by good and wholsome Laws. For thereby they destroy their own preservation. Therefore it was one of the highest praises of the *Lacedemonians*, that they knew when they had good and wholsome Laws, and as well knew how to obey them. And it was their constancy in adhering to their fundamental Laws, and the reverence they bare to their Princes so strict in the Observance of them, that so long preserv'd them their Reputation of being what they were, the most renowned People of *Greece*.

To serve a Prince because we receive particular Benefits and Graces from his Authority, is no Obedience but Self-Interest, and consequently there is no assurance of their Fidelity, which changes of an instant upon the hopes of a better Market.

Neither can that be ſaid to be true Obedience, which is only a ſubmiſſion out of fear of puniſhment. For that is only Self-love, and a natural propenſity to eaſe and repoſe. If it may not rather be ſaid to be Slavery. For ſubmiſſion out of fear denotes compulſion: and compulſion is a mark of ſervitude and vaſſalage, rather then of real Homage and Obedience.

But the Fidelity and Obedience of a true Subject proceeds from the obligation of Conſcience; and is the ſame Tye to his Prince, by which the Prince is bound to God Himſelf, by Conſcience to do Acts of Juſtice and Mercy, as being the Vice-Paſtor of the People of God, and the Vice-gerent of the King of Peace and Juſtice. Nay he is the living Image of God; Εἰκὼν δὲ βασιλεὺς ἐστιν ἔμψυχος θεοῦ. And how comes that to be? The Light of Nature tells us, ſhining even among the Heathen. Ἀρχῆς τετευχὼς ἴδι τούτης ἀξίος. For that having obtain'd a Kingdom, he is to ſhew himſelf moſt worthy of ſo ſupream a Dignity. Which high deſerving Excellence then moſt radiantly diſplays it ſelf in Majeſty, when it appears array'd

with

with the Beams of Divine Attributes. Τῇ μὲν οὐσίᾳ τοῦ σώματος ἴσος πάντες ἀνθρώπου ὁ βασιλεύς, τῇ ἐξουσίᾳ δὲ τοῦ ἀξιώματος, ὁμοιὸς ἐστι τῷ ὑπὲρ πάντων θεῷ. *Philo.* As to bodily substance a King is like another Man, but in the power of his Dignity he is like to God who is above all. So that when the Authority of a King is like the Authority of God, (and Righteous and true are all his ways) there to refuse Obedience to the King, is the same impiety as to refuse Obedience to God himself. However, it is not to be imagin'd that so much strictness can be expected from Mortality: the resemblance is enough to fix our Veneration. Therefore all Princes are by the *Psalmist* stil'd *Gods*; tho he is very severe against those that deviate from the Resemblance of the Heavenly *Prototype*. *Niloxenus* also the Wise Man, being ask'd what was the most profitable and useful Thing in the World, answer'd, a *King*, as most resembling God in his works of Justice and Mercy, and to whom therefore the People by Conscience are bound with all humility to pay the Tribute of Homage and Obedience. And for this reason

all persons, of what Quality, Condition, or Sex soever, tho they never took the Oath of Allegiance, are as firmly bound by it, as if they had taken it; as being written by the Finger of the Law in the hearts of every one, and the taking it is but an outward Declaration of the Act it self. For as it is *proprium Imperii imperare per leges*, So is it *proprium Subjectionis, obedientiam præstare per leges.* Which is no more then the reciprocal Stipulation of God himself with his Creature Man. *I am the Lord thy God that brought thee out of the Land of* Egypt, therefore thou shalt have no other Gods but me. *I am the Lord thy God, &c.* therefore obey my Commandments. And it is remarkable that God always expostulates with his People for their Ingratitude for signal benefits receiv'd, before he punish them for disobedience.

Now there is one prevailing Lure that draws Men into the Snare of *Disobedience*, and that is call'd *pretence* of *Religion*; which falling into the management of Crafty Heads, proves the pernicious Coverture of Rebellious and Trayterous designs, and therefore

one of the greatest Enemies of Law and Government in this World. It ought to be mark'd for destruction, as *Cain* was for his preservation. For it is a hard matter to discover it, so exactly do the Incendiaries and Promoters of Sedition paint and dress their false *Plantagenets*, and *Pseudo-Mustapha's* in resemblance of the real Portraiture. Especially when they come to be fucus'd and periwigg'd by the Skilful hands of Spiritual Ambition, for the support of Ecclesiastical Pomp and Superstition. It is nefarious any where, but never proves worse then when it ascends the Pulpit. From whence it ought to be exterminated with all the care imaginable; there being nothing more fatal to all good Government then to foster it in the Bosom of Interest. Which fully'd the Encomium of *Ferdinand* of *Arragon*, a most prudent and happy Prince, in whom says the Historian, there was nothing to be desir'd but that Integrity with which he us'd to cloak his ambition and immoderate desire of enlarging his Dominions, under the pretence of Religion. Nor need there any

Thuan. l. 1.

any farther Examples of the miſchiefs of diſſembl'd Piety, then thoſe which ſo lately imbru'd their hands in the bowels of this Nation.

However, the trueſt touch-ſtone of feigned Zeal and counterfeit Religion is the Fundamental Law of the Land; which being grounded, as hath bin already made out, upon the Law of God and Nature, nothing of true Zeal, nothing of ſincere Religion, nothing of Conſcience will adventure to violate or diſturb. No real Chriſtian Subject, no perſon of Conſcience, no man profeſſing the true grounds of Religion will deny his Prince the leaſt tittle of his lawful Rights, or refuſe him the leaſt Mite of his Legal Tributes, or whiſper the leaſt undecent Murmur againſt his juſt proceedings, according to the Fundamental Law of the Land, which if true Prerogative it ſelf cannot pretend againſt, much leſs are the Encroachments upon it of diſſembl'd Piety and maſqueraded Zeal to be endur'd. So that whatever pretence of Religion impugnes the Fundamental Law of the Land, the pretence is unjuſt and irreligious; and ſuch pretences

are to be grappl'd with, as the intending Introducers of Confusion and Subversion.

Not that this extends to the inforcement of Obedience to any unjust Law which the Self-ends of Interest, may produce. For according to the Sentence of all the Grand Casuists now in Fame, and of *Suarez* among the rest, an unjust Law is no Law, and therefore lays no obligation upon the Conscience or Moral Obedience of the People, but is rather to be peremptorily refus'd. Now whither any Law be unjust or no, is to be decided by *Magna Charta*, for that all Laws made contrary to That, are by other Fundamental Laws of the Realm adjudg'd to be void and of no effect. And thus the Great Charter becomes the Judge of True Religion as well as True Law. For True Law commands nothing but what is just and consonant to true Religion. But an unjust Law is *ex parte materiæ* unjust, as commanding that which is dishonest and Irreligious; of which only the pretence of Religion will adventure to be the Patron; and which they who wrest the favour of

L. 3. de leg. c. 19.

the

the Law to protect, can never be accompted Men of Religion or Piety. And therefore the vigorous defenders of pretended Religion cannot be too ſeverely cenſur'd, as being breakers of the Law. For,

Ῥήτωρ πονηρὸς τοὺς νόμους λυμαίνεται.

A wicked Orator pollutes the Laws; defending Falſhood by Fallacy, and Impoſture by deceitful Argument. Which tho they have their ſucceſſes for a time, yet no ſooner comes the Storm of Reformation, but they daſh to pieces againſt the Rock of Fundamental Law. Againſt which all the Cabals and Combinations of Policy and pretence of Religion have not yet been able to prevail. Even the moſt Potent and Arbitrary Uſurpation that ever hamper'd this Kingdom, and the moſt powerfully defended in all it's ſpecious Pretences *tam Marte quam Mercurio*, by Arms and Pens, was compell'd at length to ſurrender all its counterfeit Glory to the Reſtoration of Legal Soveraignty and Fundamental Law.

Since

Since then the Fundamental Law of *England* is the free and open *Asylum* for every Free-born English Man to repair to for the Redress of Grievances, and Oppression; as they who have recourse to other Remedies travail with Reproach and Scandal, so they who suffer Languishment and Ruine, without seeking relief in its proper place, and by those declared means, which with the consent of the Prince himself the Law of the Land, for so many Ages constituted and confirm'd, so frankly affords, are themselves the *Felo's* of their own Rights and Liberties. And if by other attempts they shew their desire of Innovasion, and have it, tho perhaps not to their own content, they are the cause Original of such Encroachments, and chiefly to be blam'd if any Violence be offer'd to the Fundamental Laws. It is their Interest therefore to defend those Laws which defend and secure their Prince and them; their Prince's Successors and their own Posterity. It is their business to stand by the sincerity of Religion, and the Integrity of their establish't Law: And therefore as the Patronage

tronage of True Religion and the Guardianship and Protection of the Fundamental Law belongs to the care of the Prince, so for the Subject to desert the Prince in the prosecution of such high designs, is to desert the chief security of their own Rights and Liberties: and to ramble after Innovations and Changes of their Establisht Laws, is to forfeit their Estates and Fortunes, and the Felicity of the whole Realm to the next most Potent Seizer. Nothing render'd the *Lacedemonians* more formidable to Forraign Nations then the strict observance of their fundamental and experienc'd Laws. And then their ancient Glory and Renown first deserted Them, when first they began to relinquish their own Security.

'Tis a folly therefore for a Nation to dis-unite about Trifles which the Law of Man is able to decide whether just and honest in Temporals, and the Holy Scripture to determine whether necessary or useful in Spirituals. To insist upon the determination of these sacred Arbitrators is not only Regular but necessary, to avoid the forfeiture

of

of Temporal Right and Christian Freedom.

If a rigorous Creditor should come and sweep away with an Execution ten times the value of his Debt, he would be thought to have a strange distrust of the Law, and to be monstrously forgetful of his Family and himself, that should forgo the relief of the Law, and suffer his Creditour to enrich himself with the Spoils of his ransackt Estate. Or if a Person of great wealth and high Authority should set up a feign'd Title to the small Tenement of a Poor man, he must be deem'd to have a very slight Opinion of the Law, that should stand still, and suffer his slender Patrimony to be ravish'd from him by the violent hands of opulent Oppression. The Law has provided Remedies against all sorts of Cruelty, and infringements of legal and due Liberty, which the natural Law of Self-preservation encourages every Man to lay hold of. So that he who carelesly neglects, deservedly suffers under the neglect of his own Security. Therefore 'tis a Maxim of the Law, *Vigilantibus, non Dormientibus Jura subveniunt.*

veniunt. And therefore alſo ſays the Son of *Syrach*, *A man of underſtanding truſteth in the Law, and the Law is faithful unto him, as an Oracle.*

Eccleſ. 33. 3.

But wherever Diviſion and Diſtraction, diſplacing Concord and Unity ſo like the precious Ointment that ran down from the Beard to the Skirts of the ſacrificers Garment, diſturb the Oeconomy of good Government, and diſorder the ſteady Courſe of *Meum* and *Tuum*, Juſtice is put to a Nonplus, being courted of all hands at the vaſt Expence of fawning Rhetoric and Reward, while both Parties endeavour to make her the Patron of their pretenſions. So that when Grievance ſeeks redreſs, or Wrong and Injury implore relief, Juſtice like a certain kind of Sentinel, demands firſt of all, *Who are ye for?* and puts ye to the *Shibboleth* Teſt, before ſhe will admit a Parley. And while a Nation is thus embroyl'd, what can be expected, but *ſæva Juſſa, continuæ accuſationes, & fallaces Amicitiæ*; Which only tend to Ruine and Deſtruction. A Scene far different from thoſe Times of Unity and Peace, of which *Tacitus* ſpeaks, when

when it was lawful to think what a Man pleas'd, and speak what he thought: the surest Character of National Quiet and Unanimity. *Hist. l. 1. c. 1.*

The *Romans* had no less then four Temples in *Rome*, dedicated to *Concord*. More then are sometimes to be found in some Christian Cities, which have three times the number of Churches. Concord is the *Medulla Spinalis* of a Kingdom, that fortifies and strengthens the several parts of a Realm, gives it Force and Activity, and makes it pliable to all the performances of Vertue and Heroic Magnanimity, that renders it compact and strong at home, and formidable abroad, and consequently secure from Clandestine and Domestic Distempers, and the Menaces of Forraign Violence. And for this reason it was that the *Thebans* assign'd the Protection of their City to the Goddess *Harmonia*; Thereby intimating the vast benefits which Kingdoms and Cities receiv'd from the strict observance of Unity and Concord among themselves. And the *Achæans* then flourish'd most highly in renown, when, *singularium urbium pe-*

riculæ mutuis viribus propulsabant. For such was the Unanimity of the several Cities under their Jurisdiction, that they were said to be but one City environ'd with several Walls. And it is farther recorded to their fame, that while Justice and Concord hold the Raines of their Government, not all the force of their confederated Adversaries could remove them from their Station. But when those Vertues were exil'd by Avarice and Ambition, and the poyson of Discord had infus'd it self into their Counsels, then fell that noble and renowned Commonwealth. Which Felicities of Justice and Concord proceeded from the equal poise between the Authority of the supream Rulers and the Peoples Liberty.

Polybius.

But the Concord and Unanimity of a Nation, more especially born to Freedom and the remembrance of their Ancestors Heroic Atchievments, are such frightful Apparitions to the jealous Politicks of all the Neighbouring World, that every one endeavours to prevent the progress of such a menacing Association. Nor are the fatal Instruments of Discord wanting to assist

fist and forward their designs. So prevalent are the sedulous and crafty to the service of the worst of Mistresses.

Among the rest, none have infus'd their poyson more deeply into the veins of secular Authority and spiritual Jurisdiction, then the Mysterious Society of *Jesus*, combin'd against the Maximes of the Sovereign of their own Order. Whose only business and employment in this World it is, to incense the People against their Princes, and Princes against their Subjects. These Vermin far excel *Proteus*, or any Infernal Spirit in the Assumption of Shapes, and are now at length a Terrour even to their first *Indulger*, even Anti-Christ Himself.

To arm themselves against these several Pests of National Concord and Unanimity, it behoves every true Christian and every good Subject. For it can be no Crime for Men born Free, to preserve their Ancient Liberties and Rights by the proper and legal means by Fundamental Law prescrib'd. It can be no Crime to countermine the hidden Trains of Ambitious Project, and self-ended Advice, which for pre-

sent gratification lye sapping the very foundations of Common Good and National Unanimity. It can be no offence to have a watchful and vigilant Eye upon the conceal'd Corroders into the Bowels of Law and Liberty, and to display the discoveries of their Wiles and Frauds. For, for want of detection the Law loses in part the opportunity of Reformation. Nature has given to all Creatures some or other defence to preserve them from the Oppression of superiour Violence. To some Horns, Claws, Tuskes, Proboscees, Taloons and Stings, from the Lyon to the Crawling Serpent. To others Scales and Armour, *Capere* from the Leviathan to the little pitiful Prawn. Neither are Vegetatives without their Thorns, Barks and Prickles. And it would be unreasonable to think, that Man should be the only part of the Creation left altogether naked. To him therefore is given, both for private and for general preservation, the defence of Reason and Law. Which they who enjoy by Fundamental Constitution, are the most happy People in the World; nor can

they

they be depriv'd of their Ineſtimable Treaſure, their *Strength in the Law of Juſtice*, unleſs they will be ſo unkind to themſelves, and ſo treacherous to their Poſterity, as to ſurrender it to the Green Withs, and weak Cords to ſuch as *love not Righteouſneſs, nor think of the Lord with a true heart.* Wiſdom 1. 1.

And as the People are allow'd the Defence of the Law for the maintenance and Protection of their Liberties. So is the ſame Law no leſs the Fortreſs and Bulwark of Prerogative. And indeed the Law gives to Princes the higheſt Prerogative imaginable. For the Law of Juſtice is Wiſdom, and not the Wiſdom of one ſingle Perſon, but the Wiſdom of God and Nature. Which therefore Kings are adviſ'd to ſeek, *that they may Reign for evermore.* And who knows, for it is not improbable; ſeeing there are Thrones and Dignities and Prehemineencies in Heaven, that the Juſt Vicegerents of God upon Earth, may be allow'd to re-aſſume their Dignities in the New *Jeruſalem*; which tho juſt and virtuous Princes cannot be ſure of, yet Tyrants and Oppreſſors can have little

little hope, that it shall ever be their Lot.

Princes without their just Prerogatives look like the Sun in Winter depriv'd of all his Beams by a thick Fog. They are but Fetter'd Dukes of *Venice*, or Elective Kings of *Poland*. Their *Res Angusta domi*, levels their condition with the meanest; *obstat Virtutibus*; It will not let them display their Vertues in the performance of those glorious Enterprizes which their Heroic Souls pant after. Their Subjects, if so they may be call'd, cannot apprehend whether they deserve or not. For 'tis no thanks that they do justly, when they have no power to do ill. And it is apparent that the too much over-weaning and over-wary curbing of Regal Power, has bin the utter overthrow of many a glorious Undertaking. And we find the *Romans*, tho they had expell'd their Kings, were forc'd, when they knew not what else in the Earth to do, in the low Ebb of their Affairs, to trust a greater Power then ever their Kings had in the Hands of a Dictator. A remedy which never fail'd 'em. And therefore it behoves

hoves the People to defend the juſt Prerogatives of the Prince with the ſame Zeal, the ſame Conſcience, and the ſame Reſolution which they owe to the maintenance of their Liberties, Lives and Fortunes. Since it may well be thought that the one cannot ſubſiſt without the other. The ſame Divine Oracle of Truth, that ſaid to Kings, Do Juſtice and lead my People, commanded the Subject to give *Ceſar* his Due. In which proportionate and equal Poyſe of Relative Care and Obedience whatever State or Kingdom keeps its Station fix'd upon the Foundations of Law and Unanimity, may be certain of an unſhaken and immoveable Diuturnity.

FINIS.